

# **Comment Summary and Responses**

## **For the March 28, 2005 Draft**

### **Los Angeles River and Tributaries Metals TMDLs**

- 1: Rufus Young, Burke Williams, and Sorensen, representing City of Alhambra et al.
2. Kenneth C. Farfsing, City of Signal Hill
3. Richard Torres, City of Montebello
4. Richard Torres, City of Montebello
5. Margaret Clark, City of Rosemead
6. Samuel Kevin Wilson, City of Vernon
7. Tim Piasky, Construction Industry Coalition on Water Quality (CICWQ)
8. Harold C. Williams, City of Gardena
9. Mike Scott, City of Azusa
10. Mike Scott, City of Azusa
11. Desi Alvarez, Executive Advisory Committee
12. Stephen W. Helvey, City of Whittier
13. Kwok Tam, City of Irwindale
14. Michael J. Egan, City of Bellflower
15. Michael J. Egan, City of Bellflower
16. Jerome G. Groomes, City of Carson
17. Jerome G. Groomes, City of Carson
18. Chris Jeffers, City of Monterey Park
19. Rita L. Robinson, City of Los Angeles
20. Rodney Andersen, City of Burbank
21. Edward H.J. Wilson, City of Signal Hill
22. Bruce D. Mattern, City of San Gabriel
23. Brian E. Wall, Chevron
24. Clifford H. Moriyama, California Coalition for Clean Water

25. Mike Wang, Western States Petroleum Association (WSPA)
26. Karen Ashby, California Stormwater Quality Association (CASQA)
27. Tracy Egoscue and Mark Gold, Santa Monica Baykeeper and Heal the Bay
28. John J. Harris, Richards, Watson, Gershon, representing cities of Beverly Hills and Monrovia
29. Victoria O. Conway, County Sanitation Districts of Los Angeles County (CSDLAC)
30. David Burhenn, Burhenn and Gest, representing the County of Los Angeles
31. Valerie Nera and Michael Rogge, Workable Approach to Environmental Regulation
32. Karen W. Wong, Southern California Gas Company
33. Ernest J. Hahn, Latham and Watkins, representing Universal Studios
34. Richard Montevideo, Rutan and Tucker, representing Coalition for Practical Regulation (CPR)
35. Ray Tahir, TECS Environmental, representing the Cities of Commerce et Al.
36. Desi Alvarez, City of Downey
37. Gerald E. Greene, City of Downey
38. Desi Alvarez, Executive Advisory Committee
43. David T. Mochizuki, City of Whittier

**Comments submitted after deadline**

39. Gary Milliman, City of South Gate
40. Shafique Naiyer, City of Baldwin Park
41. Michael Flake, California Department of Transportation
42. Melanie Winter, The River Project

No.	Author	Date	Comment	Response
1.1	City of Alhambra et al.	5/2/05	Commentors object to the Board's attempt to limit comments to revisions made since the September 2, 2004, public hearings." The authority cited in the Notice of Public Hearings for the proposition that	Staff will consider all comments on the March 28, 2005 draft TMDL - not just comments on the revised portions. All

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			the Board may “refuse to admit” proposed written comments, 23 CCR § 649.4, says nothing about refusing to admit anything.	written comments submitted by May 12, 2005 will be included in the record.
1.2	City of Alhambra et al.	5/2/05	The March 28, 2005, TMDL does not identify the changes made from the prior draft, leaving the public and interested parties without sophisticated word processing equipment unable to readily identify and comment on revisions.	The number of changes and the degree of reorganization in the March 28, 2005 draft prohibited the release of an underline/ strikeout version. Staff summarized the changes in the letter to interested parties dated March 28, 2005, at the March 7, 2005 Board workshop, and at the March 12, 2005 staff workshop. However, due to the difficulty that commentors may have in identifying specific changes, staff will consider all comments on the March 28, 2005 draft TMDL - not just comments on the revised portions.
1.3	City of Alhambra et al.	5/2/05	The comment cutoff date of May 12, 2005 leaves insufficient time for the Regional Board staff to give adequate consideration of comments, to incorporate recommended changes and to make them available for public review prior to the Public Hearing.	The comment deadline allows for 21 days prior to the June 2, 2005 Board meeting for staff to consider comments and make necessary changes. Staff does not anticipate that any potential changes will be substantive or require additional public notice.
1.4	City of Alhambra et al.	5/2/05	The CEQA checklist for the LAR Metals TMDL of March 28, 2005 fails to address adequately the four “yes” and 16 “maybe” responses and there is evidence in the record to support a fair argument that the LAR Metals TMDL of March 28, 2005 would cause an adverse environmental impact under CEQA.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
1.5	City of	5/2/05	There is a typographical error in the CEQA Checklist, at Part I, in the	The proposed revision would not change

No.	Author	Date	Comment	Response
	Alhambra et al.		first line: the parenthetical “(also know as a Basin Plan)” should be revised to read “(also known as a Basin Plan).”	the substantive portions of the CEQA checklist.
1.6	City of Alhambra et al.	5/2/05	There is an unrealistic assumption in the CEQA Checklist, at IV.1.b, that the potential adverse impact of soil disruption “could be mitigated to less than significant levels if structural BMPs are properly designed and sited in areas where risks to soil disruption are minimal” without any evidence that siting in “areas where risks to soil disruption are minimal” is possible or that even areas exist where, for example , infiltration trenches must be installed.	The staff report references local studies of potential structural BMPs (Caltrans, 2004) which demonstrate that there are areas with suitable soil and subsurface conditions for infiltration and that it is a technically feasible and effective compliance strategy for the Los Angeles River watershed. The argument that no suitable areas for infiltration exist would be speculative and is not supported by substantial evidence.
1.7	City of Alhambra et al.	5/2/05	The CEQA checklist states in several places that a separate CEQA review process likely will be required, violating CEQA’s mandate that a lead agency must analyze the entire project and may not split a project into segments.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
1.8	City of Alhambra et al.	5/2/05	The CEQA checklist does not meet the statutory requirements for a Mitigated Negative declaration because neither the Checklist nor the Staff Report sets forth specific mitigation measures for the adverse environmental impacts identified in the Checklist.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
1.9	City of Alhambra et al.	5/2/05	Sections are not numbered consecutively in the staff report.	Numbering in the staff report has been corrected.
1.10	City of Alhambra et al.	5/2/05	The header at the top of pages 2 through 5, inclusive, should be changed to “Resolution 2005-XXX ..”	The tentative Resolution shall be revised to make this correction.
1.11	City of Alhambra et al.	5/2/05	Paragraph 13 of Tentative Resolution No. 2005-XXX should be revised to delete the space between “Board” and the “s” which follows.	This correction shall be incorporated into the Resolution upon adoption by the Board.

No.	Author	Date	Comment	Response
1.12	City of Alhambra et al.	5/2/05	As a matter of law, the LAR Metals TMDL of March 28, 2005 may be applied only to navigable waters of the United States.	See responses to comments on the July 12, 2004 draft – comment No. 37.2.
1.13	City of Alhambra et al.	5/2/05	As a matter of law, the LAR Metals TMDL of March 28, 2005 may be applied only to a federally- listed water body;	See responses to comments on the July 12, 2004 draft – comment No. 1.1.
1.14	City of Alhambra et al.	5/2/05	The consideration of economic and cost analyses for the infiltration trenches and sand filters is deficient as it fails to include the cost of the acquisition or reallocation of the use of the real property on which the infiltration trenches and sand filters would be installed.	See responses to comments on the July 12, 2004 draft – comment No. 6.16.
1.15	City of Alhambra et al.	5/2/05	The LAR Metals TMDL of March 28, 2005 inappropriately applies numeric targets and allocations for metals based on the California Toxics Rule (CTR) because the CTR was developed for industrial and POTWs discharges and does not apply to storm water discharges.	See responses to comments on the July 12, 2004 draft – comment No. 6.4.
1.16	City of Alhambra et al.	5/2/05	The LAR Metals TMDL of March 28, 2005, at Table 6-2, on page 50, specifies ‘Dry-weather loading capacity (TMDL) for impaired reaches of the Los Angeles River (total recoverable metals)’ for reaches not on the 303(d) list contrary to 40 CFR § 130.7( c)1, which provides ‘(c)(1) Each State shall establish TMDLs for the water quality limited segments identified in paragraph (b)(1) of this section, and in accordance with the priority ranking.’	The water quality data review in section 2.2 of the staff report provides adequate justification for assigning TMDLs to reaches not included on the 303(d) list. Regardless of these additional findings, the Regional Board has the authority to assign allocations to upstream reaches in order to meet TMDLs for downstream impaired reaches. Reach 1 is listed for cadmium, copper, lead and zinc. The Regional Board can therefore assign waste load allocations to all upstream reaches and tributaries in

No.	Author	Date	Comment	Response
				order to meet the TMDL in Reach 1. Assigning reach-specific TMDLs is to the benefit of upstream dischargers, especially in dry weather, because waste load allocations are then based on reach specific flows and hardness values, rather than the flow and hardness values in Reach 1. See also responses to comments on the July 12, 2004 draft – comment Nos. 1.3 and 2.7.
1.17	City of Alhambra et al.	5/2/05	The proposed Basin Plan Amendment violates Water Code § 13242 because it fails to include a specific “description of the nature of actions which are necessary to achieve the objectives, including recommendations for appropriate action by any entity, public or private.”	See responses to comments on the July 12, 2004 draft – comment No. 6.11.
1.18	City of Alhambra et al.	5/2/05	As to the discussion of street sweepers, on p. 64 of the LAR Metals TMDL of March 28, 2005, there remain significant questions as to how water-quality samples are taken, processed and analyzed in the studies which purport to justify vacuum street sweepers; a study by the USGS due in early 2006 may resolve these issues.	Comment noted.
1.19	City of Alhambra et al.	5/2/05	As to the suggestion, on p. 64 of the LAR Metals TMDL of March 28, 2005, dealing with mitigating the impact of copper loading from brake pad wear, this is a matter as to which, we suggest, the Regional Board and the State Water Resources Control Board, as state agencies, should accept the responsibility of taking a leadership role, rather than attempting to shift this burden to NPDES MS4 permittees.	See responses to comments on the July 12, 2004 draft – comment No. 1.30.
1.20	City of Alhambra et al.	5/2/05	The listings for Rio Hondo Reach 1 do not reflect measurements from samples collected in August 2003 that were below the CTR (Final Rio Hondo Watershed Management Plan, Appendix A, section 2.1.7 Metals,	Since only one sample was collected from each sampling site (including one sample in Rio Hondo Reach 1), there is not enough

No.	Author	Date	Comment	Response
			page A-5.) Regional Board staff stated at the TMDL Implementation Plan Workshop on April 12, 2005 the that there is no recent data for Reach 1 Rio Hondo for Zinc, which is not the case; the listing of specific metals needs to be reevaluated and based on current information.	data from the 2003 Rio Hondo Watershed Management Plan to de-list lead, zinc, or copper in Rio Hondo Reach 1. However, this additional data shall be included in the administrative record. The hardness value sampled in Rio Hondo Reach 1 as part of the management plan was 150 mg/L as CaCO <sub>3</sub> is consistent with the median value of 141 mg/L as CaCO <sub>3</sub> used to calculate the TMDL.
1.21	City of Alhambra et al.	5/2/05	In Table 7-2 of the LAR Metals TMDL of March 28, 2005, the land use contributions indicate that the majority of the three metals come from Residential runoff, but no information is provided in the TMDL to describe the location or source of the metals; without this information, the TMDL is deficient, as it renders the development of control strategies and cost-effective BMPs impossible.	This level of detail is beyond the required scope of the source assessment. The staff report demonstrates that all sources have been considered and that there is an understanding of pollutant loading sources and the amounts and timing of pollutant discharges. Although the source assessment section is not required to support development of control strategies and cost-effective BMPs, the staff report includes information throughout that permittees can use to achieve compliance.
1.22	City of Alhambra et al.	5/2/05	The TMDL implementation plan places heavy reliance on the use of sand filters, but fails to provide a detailed analysis for a "Model Area" where sand filters would be sited, how many would be required per acre of residential area, and how large they would have to be in order to be an effective application in a highly urbanized area and fail to provide an estimated cost/benefit analysis for land acquisition, filter cost,	See responses to comments on the July 12, 2004 draft – comment No. 6.16.

No.	Author	Date	Comment	Response
			construction of underground storage vaults and detention basins and metals loading removal.	
1.23	City of Alhambra et al.	5/2/05	The requirement for submission of a draft implementation report 12 months after the TMDL is final does not allow sufficient time to evaluate areas that are to be prioritized and to select BMPs. The schedule should be revised to call for 24 months for submission of a draft report and 30 months for the final report.	Please see response to comment No. 19.11.
1.24	City of Alhambra et al.	5/2/05	The implementation schedule is defective, as specific information on the sources of the metals is not readily available and should be revised to provide that: Special Studies are to be completed during the first 5 years, to provide a basis for finalizing drainage specific implementation plans.	See response to comment No.1.21. See also responses to comments on the July 12, 2004 draft – comment No. 1.32.
1.25	City of Alhambra et al.	5/2/05	The wet-weather compliance strategy fails to identify an upper limit for treatment of peak flows and should be revised to establish an upper limit as was done for the Trash TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 1.8.
1.26	City of Alhambra et al.	5/2/05	By this reference, we incorporate the procedural objections of the petitioners in the Trash TMDL litigation against the Los Angeles Regional Water Quality Control Board; Cities of Arcadia, <i>et al.</i> , San Diego Superior Court Case No. GIC 803631.	The Trash TMDL is a different proceeding with a different technical, procedural, and substantive posture. It is unclear exactly what arguments the commenter intends to incorporate. Without designating particular arguments, Board staff is unable to incorporate specific files as appropriate. Appropriate responses have already been provided throughout these responses to comments.
2.1	Signal Hill	5/9/05	In light of the fact that there has been no redlined version or other documentation showing changes that were made to the revised TMDLs and the fact that no staff responses to previous comments have been provided, the Regional Board should extend the comment period and	See response to comment No.1.2. However, staff will not consider extending the comment deadline or continuing the TMDL. The Regional Board has more than

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			<p>continue the hearing date.</p> <p>Unless the members of the public have had the opportunity to review responses to previous comments and to consider the same in providing further comments, the Regional Board has failed to provide adequate due process of law and a fair opportunity to be heard.</p>	<p>satisfied procedural and substantive due process. While a quasi-legislative action does not trigger the full panoply of constitutional protections, the Regional Board staff has nonetheless provided nearly one year for interested persons to consider and to comment on the proposed action. Rather than circumscribing comments solely to changed items, the Regional Board has continued to receive comments that are in anyway related to the proposed TMDL. Further, there is no right to respond to responses to comments. Regional Board staff endeavor to provide detailed written responses to all timely received comments so as to inform the board members and the public. This approach is consistent with title 23, California Code of Regulations, section 3779. The release of responses prior to the final Board meeting satisfies this intent.</p>
3.1	City of Montebello	5/9/05	<p>Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that ‘if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this. The TMDL should reflect the fact that the cities affected by the TMDL will be in</p>	<p>See responses to comments on the July 12, 2004 draft – comment Nos. 1.3, 2.18, 6.4, and 16.7.</p>

No.	Author	Date	Comment	Response
			compliance so long as they implement the iterative BMPs that are consistent with the maximum extent practicable (MEP) standard.	
3.2	City of Montebello	5/9/05	The proposed implementation strategies contradict EPA's response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing "end-of-pipe" treatment facilities to comply with toxic standards.	See responses to comments on the July 12, 2004 draft – comment No. 16.11.
3.3	City of Montebello	5/9/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions, and atmospheric deposition.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
3.4	City of Montebello	5/9/05	The shared waste load allocation for the Caltrans and MS4 permittees does not recognize the unique difference between the communities and sub-watersheds. The source assessment section must be strengthened to better define the sources of pollutants causing the impairments.	<p>The BPA and staff report have been revised to include the designation of five jurisdictional groups based on reaches of the river and the subwatersheds of the tributaries that drain to each reach. This approach recognizes the differences between the communities throughout the watershed. It also addresses concerns about which area or city would comply with the first compliance milestone at year 6. The compliance milestone is now distributed among the five jurisdictional groups.</p> <p>See response comment No. 1.21 of this responsiveness summary regarding the source assessment section.</p>
3.5	City of Montebello	5/9/05	The cost analysis is underestimated because it does not account for the costs of treating 60% of the watershed (through an integrated resources	The cost analysis is based on reasonably foreseeable compliance methods. Special

No.	Author	Date	Comment	Response
			program and other implementation measures), dry-weather diversions, land acquisition, special studies, or financing capital improvements.	<p>studies are voluntary. The cost analysis focuses on compliance with the grouped storm water waste load in the urbanized portion of the watershed. These permittees will not need to treat runoff from the open space to meet their waste load allocations, so costs are not calculated for open space areas. (Please note that a typo in the staff report, in footnote No. 3 on page 68 has been corrected to change 44% to 56%). The waste load allocations for open space are orders of magnitude less than the allocations for storm water. Staff chose the remaining percentages based on the expected extent of the IRP, the removal efficiencies of non-structural BMPs, and the remaining area that would need to be treated by structural BMPs in the watershed. Costs of implementing an IRP are not estimated for the purposes of this analysis because metals removal is not the primary goal of an IRP, which addresses multiple wastewater and water resource management needs. The staff report has been clarified to more clearly state cost assumptions, BMP selection, and sizing assumptions.</p>

No.	Author	Date	Comment	Response
				For further discussion of costs and BMP selection, see responses to comments on the July 12, 2004 draft – comment No. 6.14, 6.16 and 7.4.
3.6	City of Montebello	5/9/05	It is unfair and unreasonable to expect municipalities to treat vehicular related metals loads or prevent them from entering a component of the storm drain system when municipalities only contribute to the transport of these pollutants through their roadways. The SUSMP program should be modified to be TMDL-specific, requiring projects in the Los Angeles River to install treatment controls that address metal fines.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
3.7	City of Montebello	5/9/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.27.
3.8	City of Montebello	5/9/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be completed for the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 6.17.
3.9	City of Montebello	5/9/05	The CEQA review did not effectively address a number of environmental issues and did not adequately address mitigation measures. The checklist that was used was outdated and not in conformance with the checklist that is used by other regional boards.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
3.10	City of Montebello	5/9/05	The unwillingness of local voters to fund new storm water fees (Charlton Research Company, 2002) makes it all the more critical that the Regional Board consider sections 13000 and 13241 of the Porter-Cologne Act.	See responses to comments on the July 12, 2004 draft – comment No. 6.14.
3.11	City of Montebello	5/9/05	EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The	The Supreme Court's decision in <i>City of Burbank v. SWRCB</i> , which is not yet final, has no applicability to this TMDL. First, the

No.	Author	Date	Comment	Response
			Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis. The decision in the City of Burbank v. State Water Resources Control Board No. S1119248 mandates that a full economic analysis be conducted when the regulations imposed by the state exceed federal requirements.	<p>the TMDL is clearly mandated by federal law. Second, the TMDL relies on federal water quality standards established by USEPA, so it clearly does not exceed the federal requirements. Third, in implementing an existing water quality standard under Water Code section 13242 there is no cross-reference to the provisions of Water Code section 13241—as there was in the permitting section discussed in <i>City of Burbank</i>. Fourth, assuming that a section 13241 analysis is required and that it would somehow “relax” the TMDL, the provisions of section 303(d) of the Clean Water Act require the establishment of a TMDL to implement existing water quality standards without regard to economic considerations. As such, the more appropriate portion of the <i>City of Burbank</i> decision is that part finding that state law must yield to federal law under the Supremacy Clause of the U.S. Constitution.</p> <p>Also see responses to comments on the July 12, 2004 draft – comment Nos. 6.4 and 16.11.</p>
3.12	City of Montebello	5/9/05	The Board members that were not members of the Board when the 1999 EPA Consent Decree was entered into to should consider whether the	Staff note that the TMDL includes considerable flexibility, including two

No.	Author	Date	Comment	Response
			CTR, existing EPA regulations, and State regulations allow flexibility in application and implementation.	decades to comply with the Congressional prohibition on toxic pollutants in toxic amounts and flexibility to comply through BMPs. With respect to the consent decree, USEPA is obligated to establish the metals TMDL if the Regional Board does not. Consistent with Chapter 5.5 of Division 7 of the Water Code, it is important that the State retain control of its water quality planning, rather than cede it to the federal government.
3.13	City of Montebello	5/9/05	The technical and scientific concerns raised by the peer reviewers were not addressed in the recent TMDL staff reports.	The Board has considered the peer review comments and made revisions to the scientific portion of the TMDL where appropriate. See separate response to peer review comments.
3.14	City of Montebello	5/9/05	The Board should delay adoption of the TMDL until major concerns are addressed. The Board should also delay implementation. The first phase of implementation should focus on the Regional Board partnering with other agencies to address atmospheric deposition as a source and conducting special studies. The cities will need time to complete the implementation plan, conduct special studies, and arrange for financing prior to making progress towards achievement of wet-weather allocations.	Staff has considered all comments and concerns and made changes to the staff report and BPA where appropriate. Staff believes that the 22-year phased implementation plan, with the first compliance milestone to occur 6 years after the effective date of the TMDL, and special studies due 4 years from the effective date of the TMDL, allow time to make progress towards achieving waste load allocations. Staff has met with the South Coast Air Quality Management District, Southern

No.	Author	Date	Comment	Response
				California Coastal Water Research Project, Southern California association of Governments, and LA County Department of Public Works to discuss aerial deposition issues. Participants in the meeting agreed to meet quarterly to address these issues.
4.1	City of Montebello	5/9/05	The CEQA checklist cannot be considered a functional equivalent because it is outdated and does not follow the current CEQA checklist recommended by Cal EPA. The outdated checklist is not as detailed as the current checklist and it limits environmental impact responses to yes, maybe, and no.	See response to comment No. 3.9.
4.2	City of Montebello	5/9/05	The determination made in the CEQA checklist that the metals TMDL could not have a significant effect on the environment, even though it marked “yes” in several checklist categories, is conflicting. The suggestion that any project level adverse impacts could be dealt with by lead agencies contradicts the fact that the municipal MS4 permit is not subject to CEQA. The City disagrees that all structural controls mentioned in the TMDL can be mitigated through proper design.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
4.3	City of Montebello	5/9/05	The CEQA evaluation does not adequately address adverse water quality impacts, such as the impact of contaminants contained in runoff discharged to the sub-surface through infiltration controls.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.8.
4.4	City of Montebello	5/9/05	The CEQA evaluation does not adequately address adverse impacts to land use. It does not provide detail as to how land use would be altered. Without an explanation, mitigation measures can only be marginally discussed.	See responses to comments on the July 12, 2004 draft – comment No. 2.23. Staff responded with a “maybe” answer to this question in the CEQA checklist because to the extent that project-level impacts may exist, staff recommended certain mitigation

No.	Author	Date	Comment	Response
				measures, in accordance with 14 CCR 15091, that could be adopted by to avoid negative impacts. Such measures include the implementation of projects that address multiple needs, including public parks and wildlife habitat in addition to water quality protection. Furthermore, the benefits to aquatic life and wildlife habitat outweigh any potential negative impacts.
4.5	City of Montebello	5/9/05	The CEQA evaluation does not adequately address adverse impacts to public service. The potential adverse impacts of compliance costs on fire and police protection and parks, road maintenance, library services, senior citizens and youth programs, etc, by diversion of funds are not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.18.
4.6	City of Montebello	5/9/05	The CEQA evaluation does not adequately address adverse impacts to public service - maintenance. It is not clear how maintenance relates to public service within a municipal context. The potential adverse impacts of compliance costs on repairing and maintaining roads and other infrastructure by diversion of funds is not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.19. The diversion of resources is an economic impact, which does not contribute to and is not caused by physical impacts on the environment.
4.7	City of Montebello	5/9/05	The CEQA evaluation does not adequately address adverse impacts to public service – other governmental services. The potential adverse impacts of compliance costs on governmental services by diversion of funds is not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.19. The diversion of resources is an economic impact, which does not contribute to and is not caused by physical impacts on the environment.
4.8	City of Montebello	5/9/05	The CEQA evaluation does not adequately address adverse impacts to energy. The potential adverse impacts of compliance costs on energy by	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, 8.21 and

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			diversion of funds is not discussed.	8.22. The diversion of resources is an economic impact, which does not contribute to and is not caused by physical impacts on the environment.
4.9	City of Montebello	5/9/05	The CEQA evaluation does not adequately address adverse impacts to human health. The proposed mitigation measures are unrealistic and impractical. No design precautions, siting, or maintenance would do anything to prevent mosquito breeding.	See responses to comments on the July 12, 2004 draft – comment No.8. 28. If the vector control district can review and <u>approve</u> storm water control devices, then precautions can be taken to prevent mosquito breeding. One of the precautions contemplated in the CEQA checklist is the minimization of stagnant water.
5.1	City of Rosemead	5/10/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing BMPs are the appropriate alternative to never-to-be-exceeded numeric permit limits. The TMDL should reflect a more ‘practical’ BMP approach.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, and 16.7.
5.2	City of Rosemead	5/10/05	The proposed implementation strategies contradict EPA’s response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing “end-of-pipe” treatment facilities to comply with toxic standards.	See responses to comments on the July 12, 2004 draft – comment No. 16.11.
5.3	City of Rosemead	5/10/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions, and atmospheric deposition.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
5.4	City of Rosemead	5/10/05	The shared waste load allocation for the Caltrans and MS4 permittees does not recognize the unique difference between the communities and sub-watersheds. The source assessment section must be strengthened to better define the sources of pollutants causing the impairments.	See response to comment No. 3.4.

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5.5	City of Rosemead	5/10/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.27.
5.6	City of Rosemead	5/10/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be completed for the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 6.17.
5.7	City of Rosemead	5/10/05	The unwillingness of local voters to fund new storm water fees (Charlton Research Company, 2002) makes it all the more critical that the Regional Board consider sections 13000 and 13241 of the Porter-Cologne Act.	See responses to comments on the July 12, 2004 draft – comment No. 6.14.
5.8	City of Rosemead	5/10/05	The Board members that were not members of the Board when the 1999 EPA Consent Decree was entered into to should consider whether the CTR, existing EPA regulations, and State regulations allow flexibility in application and implementation.	See response to comment No. 3.12.
5.9	City of Rosemead	5/10/05	The technical and scientific concerns raised by the peer reviewers were not addressed in the recent TMDL staff reports.	See response to comment No. 3.13.
5.10	City of Rosemead	5/10/05	The Board should delay adoption of the TMDL until major concerns are addressed. The Board should also delay implementation. The first phase of implementation should focus on the Regional Board partnering with other agencies to address atmospheric deposition as a source and conducting special studies. The cities have limited financial, scientific and technological ability to design the implementation plan and conduct special studies.	See response to comment No. 3.14.
6.1	City of Vernon	5/11/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 2.18, 6.4, and 16.7.

No.	Author	Date	Comment	Response
			“if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this. The TMDL should reflect the fact that the cities affected by the TMDL will be in compliance so long as they implement the iterative BMPs that are consistent with the maximum extent practicable (MEP) standard.	
6.2	City of Vernon	5/11/05	The proposed implementation strategies contradict EPA’s response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing “end-of-pipe” treatment facilities to comply with toxic standards.	See responses to comments on the July 12, 2004 draft – comment No. 16.11.
6.3	City of Vernon	5/11/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions, and atmospheric deposition.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
6.4	City of Vernon	5/11/05	The shared waste load allocation for the Caltrans and MS4 permittees does not recognize the unique difference between the communities and sub-watersheds. The source assessment section must be strengthened to better define the sources of pollutants causing the impairments.	See response to comment No. 3.4.
6.5	City of Vernon	5/11/05	The cost analysis is underestimated because it does not account for the costs of treating 60% of the watershed (through an integrated resources program and other implementation measures), dry-weather diversions, land acquisition, special studies, or financing capital improvements.	See response to comment No. 3.5.
6.6	City of Vernon	5/11/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, and 8.16 through 8.27.
6.7	City of Vernon	5/11/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be	See responses to comments on the July 12, 2004 draft – comment No. 6.17.

No.	Author	Date	Comment	Response
			completed for the TMDL.	
6.8	City of Vernon	5/11/05	The CEQA review did not effectively address a number of environmental issues and did not adequately address mitigation measures. The checklist that was used was outdated and not in conformance with the checklist that is used by other regional boards.	See response to comment No. 3.9.
6.9	City of Vernon	5/11/05	The unwillingness of local voters to fund new storm water fees (Charlton Research Company, 2002) makes it all the more critical that the Regional Board consider sections 13000 and 13241 of the Porter-Cologne Act.	See responses to comments on the July 12, 2004 draft – comment No. 6.14.
6.10	City of Vernon	5/11/05	EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis. The decision in the City of Burbank v. State Water Resources Control Board No. S1119248 mandates that a full economic analysis be conducted when the regulations imposed by the state exceed federal requirements.	See response to comment No. 3.11.
6.11	City of Vernon	5/11/05	It is unfair and unreasonable to expect municipalities to treat vehicular related metals loads or prevent them from entering a component of the storm drain system when municipalities only contribute to the transport of these pollutants through their roadways. The SUSMP program should be modified to be TMDL-specific, requiring projects in the Los Angeles River to install treatment controls that address metal fines.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
6.12	City of Vernon	5/11/05	The Board members that were not members of the Board when the 1999 EPA Consent Decree was entered into to should consider whether the CTR, existing EPA regulations, and State regulations allow flexibility in application and implementation.	See response to comment No. 3.12.
6.13	City of Vernon	5/11/05	The technical and scientific concerns raised by the peer reviewers were	See response to comment No. 3.13.

No.	Author	Date	Comment	Response
			not addressed in the recent TMDL staff reports.	
6.14	City of Vernon	5/11/05	The Board should delay adoption of the TMDL until major concerns are addressed. The Board should also delay implementation. The first phase of implementation should focus on the Regional Board partnering with other agencies to address atmospheric deposition as a source and conducting special studies. The cities will need time to complete the implementation plan, conduct special studies, and arrange for financing prior to making progress towards achievement of wet-weather allocations.	See response to comment No. 3.14.
6.13.b	City of Vernon	5/11/05	The CEQA checklist cannot be considered a functional equivalent because it is outdated and does not follow the current CEQA checklist recommended by Cal EPA. The outdated checklist is not as detailed as the current checklist and it limits environmental impact responses to yes, maybe, and no.	See response to comment No. 3.9.
6.14.b	City of Vernon	5/11/05	The determination made in the CEQA checklist that the metals TMDL could not have a significant effect on the environment, even though it marked “yes” in several checklist categories, is conflicting. The suggestion that any project level adverse impacts could be dealt with by lead agencies contradicts the fact that the municipal MS4 permit is not subject to CEQA. The City disagrees that all structural controls mentioned in the TMDL can be mitigated through proper design.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
6.15	City of Vernon	5/11/05	The CEQA evaluation does not adequately address adverse water quality impacts, such as the impact of contaminants contained in runoff discharged to the sub-surface through infiltration controls.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.8.
6.16	City of Vernon	5/11/05	The CEQA evaluation does not adequately address adverse impacts to land use. It does not provide detail as to how land use would be altered. Without an explanation, mitigation measures can only be marginally discussed.	See response to comment No 4.4.

No.	Author	Date	Comment	Response
6.17	City of Vernon	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service. The potential adverse impacts of compliance costs on fire and police protection and parks, road maintenance, library services, senior citizens and youth programs, etc, by diversion of funds are not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.18.
6.18	City of Vernon	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service - maintenance. It is not clear how maintenance relates to public service within a municipal context. The potential adverse impacts of compliance costs on repairing and maintaining roads and other infrastructure by diversion of funds is not discussed.	See responses to comment No. 4.6.
6.19	City of Vernon	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service – other governmental services. The potential adverse impacts of compliance costs on governmental services by diversion of funds is not discussed.	See responses to comment No. 4.7.
6.20	City of Vernon	5/11/05	The CEQA evaluation does not adequately address adverse impacts to energy. The potential adverse impacts of compliance costs on energy by diversion of funds is not discussed.	See responses to comment No. 4.8.
6.21	City of Vernon	5/11/05	The CEQA evaluation does not adequately address adverse impacts to human health. The proposed mitigation measures are unrealistic and impractical. No design precautions, siting, or maintenance would do anything to prevent mosquito breeding.	See response to comment No. 4.9.
7.1	CICWQ	5/10/05	The development of a WLA for construction based upon total acreage is highly suspect because it uses one snapshot in time in order to establish WLA's for construction. The method for calculating the total acreage in this snapshot using the State Board enrollment database is not clear. It is highly likely that this "snapshot" in time would be substantially different depending on when the "snapshot" was taken.	Staff assumed a relatively constant turnover of construction projects in the urbanized portion of the LA River watershed to obtain an approximate estimate of their acreage. This was only done for the purpose of allocating the total storm water load among the storm water permittees. Please note that

No.	Author	Date	Comment	Response
				although the WLAs are expressed as mass per day, they are actually concentration-based, since the mass-based WLAs are simply calculated multiplying the critical flow by the concentration-based numeric target.
7.2	CICWQ	5/10/05	The dry weather waste load allocation of zero for construction is unjustified. The language in Order No. 99-08 DWQ does not equate to the complete prohibition of non-storm water discharges from construction sites. Therefore, a dry-weather WLA of zero for construction sites unreasonably conflicts with existing regulations.	The implementation language in the BPA and staff report have been revised to exempt non-storm water flows authorized under 99-08 DWQ from the dry-weather waste load allocation equal to zero.
7.3	CICWQ	5/10/05	Atmospheric deposition and natural background levels are not adequately considered in wet-weather WLA for construction. In addition, the estimation of natural background levels of metals seems to grossly misstate the actual contribution. It is clear that -- based on atmospheric deposition and natural background levels -- meeting the wet-weather construction WLA would be extremely difficult and unreasonably expensive, if not physically impossible at any cost.	The implementation language in the BPA and staff report have been revised to allow industry-wide BMP effectiveness studies to be submitted to the Board for their consideration. Individual permittees would be deemed in compliance if they implemented Regional Board approved BMPs. It should also be noted that only a relatively small portion of the amount of metals from indirect atmospheric deposition is discharged to surface waters. The amount of discharge is dependent on the percent of impervious surface, but Sabin et al. reported transmission efficiencies of 10% to 20%. (Sabin et al., p. 58)
7.4	CICWQ	5/10/05	To the extent the Waste Load Allocations reflect a regulatory disregard for naturally occurring pollution and/or for pollution more properly attributable to other unregulated public activities unrelated to	The WLAs are established to implement existing water quality standards. To the extent a construction site is mobilizing

No.	Author	Date	Comment	Response
			construction activities, undue burdens foisted on construction activities could rise to the level of a ‘regulatory taking,’ or a violation of substantive due process. Under the United States Supreme Court’s ‘rough proportionality’ and ‘rational basis’ standards.	<p>pollutants and discharging storm water containing those mobilized pollutants, the operator is discharging pollutants within the legal ambit of the Clean Water Act. It is the discharger’s action that is therefore contributing to a violation of water quality standards. No U.S. Supreme Court precedent supports a conclusion that the Regional Board’s establishment of WLAs would rise to a constitutional taking in violation of the Fifth Amendment.</p> <p>See also response to comments on the July 12, 2004 draft – comment No. 10.8.</p>
7.5	CICWQ	5/10/05	The Proposed Amendment continues the Regional Board’s longstanding failure to properly account for economic considerations – as required to comply with California Water Code sections 13241 and 13263.	See response to comments on the July 12, 2004 draft – comment No. 6.14.
7.6	CICWQ	5/10/05	On-site measurements will be required of storm water runoff for comparison to a ‘concentration-based’ waste load allocation based on remote USEPA benchmarks. These are therefore effluent limitations expected to be met at the edge of the construction site. The TMDL lacks any indication of how a wet-weather event would be determined at the construction site, how much metals would actually be expected from construction sites, how much of the metals from construction sites actually makes its way to the receiving water, when it might arrive and how much of the metals yield that does make it to the receiving water actually contributes to the violation of the water quality standard.	Staff commits to addressing the issue of a maximum design storm for BMP compliance through the wet-weather task force. Based on the task force’s recommendation, staff will bring the definition of a storm that will address multiple TMDLs to the Board for their consideration as a Basin Plan amendment.

No.	Author	Date	Comment	Response
			There is no reason to believe that implementation of the current requirements of the State General Construction Permit and MS4 Permits would result in non-compliance with the WLA's. Construction projects should only need to implement additional BMPs (above and beyond those already required) if it is found that; 1) existing requirements are not sufficient to keep MS4 dischargers from being able to comply with their WLA downstream; and 2) truly representative sampling indicates that construction activities contribute substantially to the exceedances.	See response to comment No. 7.3.
7.7	CICWQ	5/10/05	On-Site monitoring of all construction sites is infeasible because of the large sample sizes that must be collected to capture the variability of storm water. On-Site monitoring is unwarranted because construction projects are already heavily regulated through the State General Construction Permit and the ordinances of MS4 operators.	See response to comment No. 7.3.
8.1	City of Gardena	5/10/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that "if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, and 16.7.
8.2	City of Gardena	5/10/05	The proposed implementation strategies contradict EPA's response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing "end-of-pipe" treatment facilities to comply with toxic standards.	See response to comments on the July 12, 2004 draft – comment Nos. 16.11.
8.3	City of Gardena	5/10/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions,	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.

No.	Author	Date	Comment	Response
			and atmospheric deposition.	
8.4	City of Gardena	5/10/05	It is unfair and unreasonable to expect municipalities to treat vehicular related metals loads or prevent them from entering a component of the storm drain system when municipalities only contribute to the transport of these pollutants through their roadways. The SUSMP program should be modified to be TMDL-specific, requiring projects in the Los Angeles River to install treatment controls that address metal fines.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
8.5	City of Gardena	5/10/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos.2.23 and 8.16 through 8.27.
8.6	City of Gardena	5/10/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be completed for the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 6.17.
8.7	City of Gardena	5/10/05	The CEQA review did not effectively address a number of environmental issues and did not adequately address mitigation measures. The checklist that was used was outdated and not in conformance with the checklist that is used by other regional boards.	See response to comment No. 3.9.
8.8	City of Gardena	5/10/05	The Regional Board must consider sections 13000 and 13241 of the Porter-Cologne Act. EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis.	See response to comment No. 3.11.
9.1	City of Azusa	5/10/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, and 16.7.

No.	Author	Date	Comment	Response
			“if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this.	
9.2	City of Azusa	5/10/05	The proposed implementation strategies contradict EPA’s response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing “end-of-pipe” treatment facilities to comply with toxic standards.	See response to comments on the July 12, 2004 draft – comment Nos. 16.11.
9.3	City of Azusa	5/10/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions, and atmospheric deposition.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
9.4	City of Azusa	5/10/05	It is unfair and unreasonable to expect municipalities to treat vehicular related metals loads or prevent them from entering a component of the storm drain system when municipalities only contribute to the transport of these pollutants through their roadways. The SUSMP program should be modified to be TMDL-specific, requiring projects in the Los Angeles River to install treatment controls that address metal fines.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
9.5	City of Azusa	5/10/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos.2.23 and 8.16 through 8.27.
9.6	City of Azusa	5/10/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be completed for the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 6.17.
9.7	City of Azusa	5/10/05	The CEQA review did not effectively address a number of environmental issues and did not adequately address mitigation measures. The checklist that was used was outdated and not in conformance with the checklist that is used by other regional boards.	See response to comment No. 3.9.

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9.8	City of Azusa	5/10/05	The Regional Board must consider sections 13000 and 13241 of the Porter-Cologne Act. EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis.	See response to comment No. 3.11.
10.1	City of Azusa	5/10/05	The CEQA checklist cannot be considered a functional equivalent because it is outdated and does not follow the current CEQA checklist recommended by Cal EPA. The outdated checklist is not as detailed as the current checklist and it limits environmental impact responses to yes, maybe, and no.	See response to comment No. 3.9.
10.2	City of Azusa	5/10/05	The determination made in the CEQA checklist that the metals TMDL could not have a significant effect on the environment, even though it marked “yes” in several checklist categories, is conflicting. The suggestion that any project level adverse impacts could be dealt with by lead agencies contradicts the fact that the municipal MS4 permit is not subject to CEQA. The City disagrees that all structural controls mentioned in the TMDL can be mitigated through proper design.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
10.3	City of Azusa	5/10/05	The CEQA evaluation does not adequately address adverse water quality impacts, such as the impact of contaminants contained in runoff discharged to the sub-surface through infiltration controls.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.8.
10.4	City of Azusa	5/10/05	The CEQA evaluation does not adequately address adverse impacts to land use. It does not provide detail as to how land use would be altered. Without an explanation, mitigation measures can only be marginally discussed.	See response to comment No 4.4.
10.5	City of Azusa	5/10/05	The CEQA evaluation does not adequately address adverse impacts to public service. The potential adverse impacts of compliance costs on fire and police protection and parks, road maintenance, library services,	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.18.

No.	Author	Date	Comment	Response
			senior citizens and youth programs, etc, by diversion of funds are not discussed.	
10.6	City of Azusa	5/10/05	The CEQA evaluation does not adequately address adverse impacts to public service - maintenance. It is not clear how maintenance relates to public service within a municipal context. The potential adverse impacts of compliance costs on repairing and maintaining roads and other infrastructure by diversion of funds is not discussed.	See responses to comment No. 4.6.
10.7	City of Azusa	5/10/05	The CEQA evaluation does not adequately address adverse impacts to public service – other governmental services. The potential adverse impacts of compliance costs on governmental services by diversion of funds is not discussed.	See responses to comment No. 4.7.
10.8	City of Azusa	5/10/05	The CEQA evaluation does not adequately address adverse impacts to energy. The potential adverse impacts of compliance costs on energy by diversion of funds is not discussed.	See responses to comment No. 4.8.
10.9	City of Azusa	5/10/05	The CEQA evaluation does not adequately address adverse impacts to human health. The proposed mitigation measures are unrealistic and impractical. No design precautions, siting, or maintenance would do anything to prevent mosquito breeding.	See response to comment No. 4.9.
11.1	Executive Advisory Committee	5/10/05	The EAC requests an extension of the comment period for the metals and toxicity TMDLs because responses to comments on earlier draft TMDLs have not been posted and staff has not clarified assumptions about Rio Hondo hardness values.	See response to comment No. 2.1.
12.1	City of Whittier	5/11/05	The CEQA checklist cannot be considered a functional equivalent because it is outdated and does not follow the current CEQA checklist recommended by Cal EPA. The outdated checklist is not as detailed as the current checklist and it limits environmental impact responses to yes, maybe, and no.	See response to comment No. 3.9.

No.	Author	Date	Comment	Response
12.2	City of Whittier	5/11/05	The determination made in the CEQA checklist that the metals TMDL could not have a significant effect on the environment, even though it marked “yes” in several checklist categories, is conflicting. The suggestion that any project level adverse impacts could be dealt with by lead agencies contradicts the fact that the municipal MS4 permit is not subject to CEQA. The City disagrees that all structural controls mentioned in the TMDL can be mitigated through proper design.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
12.3	City of Whittier	5/11/05	The CEQA evaluation does not adequately address adverse water quality impacts, such as the impact of contaminants contained in runoff discharged to the sub-surface through infiltration controls.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.8.
12.4	City of Whittier	5/11/05	The CEQA evaluation does not adequately address adverse impacts to land use. It does not provide detail as to how land use would be altered. Without an explanation, mitigation measures can only be marginally discussed.	See response to comment No 4.4.
12.5	City of Whittier	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service. The potential adverse impacts of compliance costs on fire and police protection and parks, road maintenance, library services, senior citizens and youth programs, etc, by diversion of funds are not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.18.
12.6	City of Whittier	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service - maintenance. It is not clear how maintenance relates to public service within a municipal context. The potential adverse impacts of compliance costs on repairing and maintaining roads and other infrastructure by diversion of funds is not discussed.	See responses to comment No. 4.6.
12.7	City of Whittier	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service – other governmental services. The potential adverse impacts of compliance costs on governmental services by diversion of	See responses to comment No. 4.7.

No.	Author	Date	Comment	Response
			funds is not discussed.	
12.8	City of Whittier	5/11/05	The CEQA evaluation does not adequately address adverse impacts to energy. The potential adverse impacts of compliance costs on energy by diversion of funds is not discussed.	See responses to comment No. 4.8.
12.9	City of Whittier	5/11/05	The CEQA evaluation does not adequately address adverse impacts to human health. The proposed mitigation measures are unrealistic and impractical. No design precautions, siting, or maintenance would do anything to prevent mosquito breeding.	See response to comment No. 4.9.
13.1	City of Irwindale	5/11/05	The CEQA checklist cannot be considered a functional equivalent because it is outdated and does not follow the current CEQA checklist recommended by Cal EPA. The outdated checklist is not as detailed as the current checklist and it limits environmental impact responses to yes, maybe, and no.	See response to comment No. 3.9.
13.2	City of Irwindale	5/11/05	The determination made in the CEQA checklist that the metals TMDL could not have a significant effect on the environment, even though it marked “yes” in several checklist categories, is conflicting. The suggestion that any project level adverse impacts could be dealt with by lead agencies contradicts the fact that the municipal MS4 permit is not subject to CEQA. The City disagrees that all structural controls mentioned in the TMDL can be mitigated through proper design.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
13.3	City of Irwindale	5/11/05	The CEQA evaluation does not adequately address adverse water quality impacts, such as the impact of contaminants contained in runoff discharged to the sub-surface through infiltration controls.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.8.
13.4	City of Irwindale	5/11/05	The CEQA evaluation does not adequately address adverse impacts to land use. It does not provide detail as to how land use would be altered. Without an explanation, mitigation measures can only be marginally discussed.	See response to comment No 4.4.

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13.5	City of Irwindale	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service. The potential adverse impacts of compliance costs on fire and police protection and parks, road maintenance, library services, senior citizens and youth programs, etc, by diversion of funds are not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.18.
13.6	City of Irwindale	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service - maintenance. It is not clear how maintenance relates to public service within a municipal context. The potential adverse impacts of compliance costs on repairing and maintaining roads and other infrastructure by diversion of funds is not discussed.	See responses to comment No. 4.6.
13.7	City of Irwindale	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service – other governmental services. The potential adverse impacts of compliance costs on governmental services by diversion of funds is not discussed.	See responses to comment No. 4.7.
13.8	City of Irwindale	5/11/05	The CEQA evaluation does not adequately address adverse impacts to energy. The potential adverse impacts of compliance costs on energy by diversion of funds is not discussed.	See responses to comment No. 4.8.
13.9	City of Irwindale	5/11/05	The CEQA evaluation does not adequately address adverse impacts to human health. The proposed mitigation measures are unrealistic and impractical. No design precautions, siting, or maintenance would do anything to prevent mosquito breeding.	See response to comment No. 4.9.
14.1	City of Bellflower	5/11/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that ‘if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, and 16.7.

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14.2	City of Bellflower	5/11/05	The proposed implementation strategies contradict EPA's response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing "end-of-pipe" treatment facilities to comply with toxic standards.	See response to comments on the July 12, 2004 draft – comment Nos. 16.11.
14.3	City of Bellflower	5/11/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions, and atmospheric deposition.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
14.4	City of Bellflower	5/11/05	It is unfair and unreasonable to expect municipalities to treat vehicular related metals loads or prevent them from entering a component of the storm drain system when municipalities only contribute to the transport of these pollutants through their roadways. The SUSMP program should be modified to be TMDL-specific, requiring projects in the Los Angeles River to install treatment controls that address metal fines.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
14.5	City of Bellflower	5/11/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.27.
14.6	City of Bellflower	5/11/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be completed for the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 6.17.
14.7	City of Bellflower	5/11/05	The CEQA review did not effectively address a number of environmental issues and did not adequately address mitigation measures. The checklist that was used was outdated and not in conformance with the checklist that is used by other regional boards.	See response to comment No. 3.9.
14.8	City of Bellflower	5/11/05	The Regional Board must consider sections 13000 and 13241 of the Porter-Cologne Act. EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by	See response to comment No. 3.11.

No.	Author	Date	Comment	Response
			local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis.	
15.1	City of Bellflower	5/11/05	The CEQA checklist cannot be considered a functional equivalent because it is outdated and does not follow the current CEQA checklist recommended by Cal EPA. The outdated checklist is not as detailed as the current checklist and it limits environmental impact responses to yes, maybe, and no.	See response to comment No. 3.9.
15.2	City of Bellflower	5/11/05	The determination made in the CEQA checklist that the metals TMDL could not have a significant effect on the environment, even though it marked “yes” in several checklist categories, is conflicting. The suggestion that any project level adverse impacts could be dealt with by lead agencies contradicts the fact that the municipal MS4 permit is not subject to CEQA. The City disagrees that all structural controls mentioned in the TMDL can be mitigated through proper design.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
15.3	City of Bellflower	5/11/05	The CEQA evaluation does not adequately address adverse water quality impacts, such as the impact of contaminants contained in runoff discharged to the sub-surface through infiltration controls.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.8.
15.4	City of Bellflower	5/11/05	The CEQA evaluation does not adequately address adverse impacts to land use. It does not provide detail as to how land use would be altered. Without an explanation, mitigation measures can only be marginally discussed.	See response to comment No 4.4.
15.5	City of Bellflower	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service. The potential adverse impacts of compliance costs on fire and police protection and parks, road maintenance, library services, senior citizens and youth programs, etc, by diversion of funds are not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.18.
15.6	City of	5/11/05	The CEQA evaluation does not adequately address adverse impacts to	See responses to comment No. 4.6.

No.	Author	Date	Comment	Response
	Bellflower		public service - maintenance. It is not clear how maintenance relates to public service within a municipal context. The potential adverse impacts of compliance costs on repairing and maintaining roads and other infrastructure by diversion of funds is not discussed.	
15.7	City of Bellflower	5/11/05	The CEQA evaluation does not adequately address adverse impacts to public service – other governmental services. The potential adverse impacts of compliance costs on governmental services by diversion of funds is not discussed.	See responses to comment No. 4.7.
15.8	City of Bellflower	5/11/05	The CEQA evaluation does not adequately address adverse impacts to energy. The potential adverse impacts of compliance costs on energy by diversion of funds is not discussed.	See responses to comment No. 4.8.
15.9	City of Bellflower	5/11/05	The CEQA evaluation does not adequately address adverse impacts to human health. The proposed mitigation measures are unrealistic and impractical. No design precautions, siting, or maintenance would do anything to prevent mosquito breeding.	See response to comment No. 4.9.
16.1	City of Carson	5/11/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that “if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, and 16.7.
16.2	City of Carson	5/11/05	The proposed implementation strategies contradict EPA’s response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing “end-of-pipe” treatment facilities to comply with toxic standards.	See response to comments on the July 12, 2004 draft – comment Nos. 16.11.
16.3	City of Carson	5/11/05	The TMDLs make the cities responsible for metals pollution from	See responses to comments on the July 12,

No.	Author	Date	Comment	Response
			sources out of their control such as open areas, educational institutions, and atmospheric deposition.	2004 draft – comment Nos. 10.21 and 13.1.
16.4	City of Carson	5/11/05	It is unfair and unreasonable to expect municipalities to treat vehicular related metals loads or prevent them from entering a component of the storm drain system when municipalities only contribute to the transport of these pollutants through their roadways. The SUSMP program should be modified to be TMDL-specific, requiring projects in the Los Angeles River to install treatment controls that address metal fines.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
16.5	City of Carson	5/11/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.27.
16.6	City of Carson	5/11/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be completed for the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 6.17.
16.7	City of Carson	5/11/05	The CEQA review did not effectively address a number of environmental issues and did not adequately address mitigation measures. The checklist that was used was outdated and not in conformance with the checklist that is used by other regional boards.	See response to comment No. 3.9.
16.8	City of Carson	5/11/05	The Regional Board must consider sections 13000 and 13241 of the Porter-Cologne Act. EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis.	See response to comment No. 3.11.
17.1	City of Carson	5/12/05	The CEQA checklist cannot be considered a functional equivalent because it is outdated and does not follow the current CEQA checklist recommended by Cal EPA. The outdated checklist is not as detailed as	See response to comment No. 3.9.

No.	Author	Date	Comment	Response
			the current checklist and it limits environmental impact responses to yes, maybe, and no.	
17.2	City of Carson	5/12/05	The determination made in the CEQA checklist that the metals TMDL could not have a significant effect on the environment, even though it marked ‘yes’ in several checklist categories, is conflicting. The suggestion that any project level adverse impacts could be dealt with by lead agencies contradicts the fact that the municipal MS4 permit is not subject to CEQA. The City disagrees that all structural controls mentioned in the TMDL can be mitigated through proper design.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
17.3	City of Carson	5/12/05	The CEQA evaluation does not adequately address adverse water quality impacts, such as the impact of contaminants contained in runoff discharged to the sub-surface through infiltration controls.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.8.
17.4	City of Carson	5/12/05	The CEQA evaluation does not adequately address adverse impacts to land use. It does not provide detail as to how land use would be altered. Without an explanation, mitigation measures can only be marginally discussed.	See response to comment No 4.4.
17.5	City of Carson	5/12/05	The CEQA evaluation does not adequately address adverse impacts to public service. The potential adverse impacts of compliance costs on fire and police protection and parks, road maintenance, library services, senior citizens and youth programs, etc, by diversion of funds are not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.18.
17.6	City of Carson	5/12/05	The CEQA evaluation does not adequately address adverse impacts to public service - maintenance. It is not clear how maintenance relates to public service within a municipal context. The potential adverse impacts of compliance costs on repairing and maintaining roads and other infrastructure by diversion of funds is not discussed.	See responses to comment No. 4.6.
17.7	City of Carson	5/12/05	The CEQA evaluation does not adequately address adverse impacts to public service – other governmental services. The potential adverse	See responses to comment No. 4.7.

No.	Author	Date	Comment	Response
			impacts of compliance costs on governmental services by diversion of funds is not discussed.	
17.8	City of Carson	5/12/05	The CEQA evaluation does not adequately address adverse impacts to energy. The potential adverse impacts of compliance costs on energy by diversion of funds is not discussed.	See responses to comment No. 4.8.
17.9	City of Carson	5/12/05	The CEQA evaluation does not adequately address adverse impacts to human health. The proposed mitigation measures are unrealistic and impractical. No design precautions, siting, or maintenance would do anything to prevent mosquito breeding.	See response to comment No. 4.9.
18.1	City of Monterey Park	5/10/05	The City does not agree with using numeric limits as currently written in the TMDL. Instead the City supports an iterative BMP approach that would result in receiving water concentrations that protect beneficial uses. We are extremely concerned that the application of the California Toxic Rule (CTR) limits to storm water is inappropriate, as the CTR was developed for industrial and POTWs discharges. We feel the record clearly shows that the EPA did not intend for these limits to be applied to storm water and hence did not conduct an economic analysis of the implications of applying the limits to storm water and envision the extensive treatment that would subsequently be required.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, 16.7, and 16.11.
18.2	City of Monterey Park	5/10/05	The allocation for open space is wholly inadequate and metals originating in open spaces may make compliance with the TMDL impossible. The TMDL assigns responsibility to cities for metals pollution outside their jurisdiction and control (i.e. from non City lands and for metals arriving to City lands from atmospheric depositions.) If compliance is not achieved at the downstream compliance point we are concerned that it will extremely difficult to identify the responsible party.	See response to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1
18.3	City of	5/10/05	The TMDL attempts to shift the burden of other regional/statewide	See responses to comments on the July 12,

No.	Author	Date	Comment	Response
	Monterey Park		issues such as brake pad wear onto cities. The Regional Board and State Water Resource Control Board should accept responsibility for this by attempting to persuade other State agencies (i.e. the California Air Resources Board or Caltrans) to address this issue.	2004 draft – comment Nos. 10.21 and 13.1. Staff has met with the South Coast Air Quality Management District, Southern California Coastal Water Research Project, Southern California association of Governments, and LA County Department of Public Works to discuss aerial deposition issues. Participants in the meeting agreed to meet quarterly to address these issues.
18.4	City of Monterey Park	5/10/05	It is the responsibility for the Regional Board to conduct special studies prior to the adoption and implementation of the TMDL. This TMDL requires extremely costly measures to be taken by cities and it is only appropriate that these outstanding issues be resolved prior to the commitment of the tremendous amount of resources required for compliance.	See responses to comments on the July 12, 2004 draft – comment No. 13.11.
18.5	City of Monterey Park	5/10/05	The TMDL implementation plan places heavy reliance on infiltration trenches and sand filters, suggesting that 40% of the watershed could require the installation of these devices. However, the TMDL fails to provide an adequate analysis of these costs and neglects to address land acquisition, pretreatment devices such as bio-filtration strips or gross solids devices, construction of underground storage vaults, and detention basin and metals loading removal. We believe it makes more sense to use real construction numbers from the Caltrans BMP Pilot Program where these devices were installed freeways in San Diego and Los Angeles County in 1999-2000.	See response to comment No. 3.5. and responses to comments on the July 12, 2004 draft – comment No. 5.3.
18.6	City of Monterey Park	5/10/05	Based on this cost estimate, proper functional equivalent document for these TMDLS must be more substantial than the checklist response provided by the Regional Board.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 6.21.

No.	Author	Date	Comment	Response
18.7	City of Monterey Park	5/10/05	The Regional Board must consider the requirements of Porter-Cologne Sections 13241 and 13242, especially as the TMDL appears to impose state requirements that are more stringent than Federal law (see City of Burbank v. State Water Resources Control Board No.SI19248.)	See response to comment No. 3.11.
19.1	City of Los Angeles	5/12/05	The Board should be aware that the City will work with the SWRCB so that future evaluation of a waterbody will be done using dissolved data only. The translator is intended to convert dissolved criteria to total effluent limits, not to assess receiving water quality for metals based on total recoverable data. The City intends to gather additional dissolved data for the metals concern in order to reevaluate the waterbody for the next 303(d) listing cycle.	Comment noted.
19.2	City of Los Angeles	5/12/05	The Basin Plan amendment should be clarified to indicate that BMPs will be translated into compliance through the MS4 NPDES program in an iterative, adaptive manner.	See responses to comments on the July 12, 2004 draft – comment Nos. 1.3 and 1.9.
19.3	City of Los Angeles	5/12/05	WLAs should only apply to listed reaches. WLAs for unlisted reaches should be changed to goals, and later incorporated into permits as such. In order to use WLAs, the RWQCB, SWRCB, and U.S.EPA should use an iterative, transparent process where complete and adequate assessments are presented to justify a listing based on the State Board and 303(d) listing policy.	See responses to comments on the July 12, 2004 draft – comment No. 1.1.
19.4	City of Los Angeles	5/12/05	The Board should modify the implementation section of the BPA and also the POTW dry-weather and wet-weather WLAs sections to implement copper WLAs as effluent limits in NPDES permits in three phases with 1) interim, performance-based targets, 2) targets based on WER studies downstream of POTWs, and 3) targets based on WER studies in all reaches of the River.	See responses to comments on the July 12, 2004 draft – comment No. 1.2.
19.5	City of Los Angeles	5/12/05	The Board should revise the TMDL so that numeric targets with significant uncertainties do not drive costly POTW infrastructure	The conservative assumptions in the development of the numeric targets are

No.	Author	Date	Comment	Response
			projects until technical uncertainties are resolved. The Board should establish interim, performance-based targets while uncertainties are resolved in the first phase of TMDL implementation.	applied towards the margin of safety. The TMDL will be reconsidered prior to the need for any potential POTW infrastructure projects.
19.6	City of Los Angeles	5/12/05	The Board should modify the implementation schedule of the amendment to read, “If through the TMDL special studies, a POTW demonstrates that <del>advanced new</del> treatment <u>facilities will</u> be required to meet final waste load allocations, the Regional Board <del>will consider</del> <u>shall</u> <del>extending</del> the implementation schedule to allow POTWs up to 10 years <del>from the effective date of the TMDL</del> to achieve compliance with the final WLAs.”	Future Regional Boards should have the discretion to determine if it is appropriate to allow additional time for implementation based on the information provided by the POTWs.
19.7	City of Los Angeles	5/12/05	In the Source Analysis section of the amendment should show the relationship between air deposition sources and water quality impacts. The SCCWRP study citation in the staff report should also be cited in the amendment language. In the load allocation section, the Board should provide a load allocation for indirect air deposition, so that MS4 permittees may better direct source control measures and BMPs.	See responses to comments on the July 12, 2004 draft – comment No. 1.40. Because indirect air deposition is not assigned a load allocation, and is instead accounted for in the WLAs for the storm water permittees, a discussion of indirect air deposition is not necessary to understanding the TMDL requirements, and should not be included in the amendment language.
19.8	City of Los Angeles	5/12/05	The Board should change the TMDL titles to “TMDL for Metals and Selenium in the Los Angeles River and Tributaries,” because selenium is not a metal.	The proposed revision is not necessary and would not affect the substantive portions of the TMDL.
19.9	City of Los Angeles	5/12/05	Areas of open space should be included as part of the watershed since open space areas contribute large amounts of sediment and metals are known to attach to sediments.	See responses to comments on the July 12, 2004 draft – comment No. 1.40.
19.10	City of Los Angeles	5/12/05	The Board should take the lead on establishing two subwatersheds for ease of coordination, with the Arroyo Seco as a suggested boundary.	See response to comment on No. 3.4.

No.	Author	Date	Comment	Response
19.11	City of Los Angeles	5/12/05	The City requests a minimum of 24 months for completion of a draft implementation report and 30 months for the final report.	It is important to provide insurance that the cities are moving forward in a thoughtful manner. Staff therefore believes the cities should begin implementation as soon as possible. Cities can revise the plan based upon new information when the TMDL is reconsidered in five years. The BPA has been revised to extend the deadline for submittal of implementation plans to 18 and 24 mos for a draft and final plan, respectively. Dividing the watershed into jurisdictional units should help facilitate the development of implementation plans.
19.12	City of Los Angeles	5/12/05	The City requests 15 months to develop a coordinated monitoring plan because the necessity for an expedited monitoring plan is not evident.	The BPA and staff report have been revised to make this change.
19.13	City of Los Angeles	5/12/05	There is a probably typographical error on page 14, which describes 13, not 14 beneficial uses in Table 2-1.	The staff report shall be corrected.
19.14	City of Los Angeles	5/12/05	The Board should recognize the limitations of the implementation strategies discussed in the staff report.	The proposed implementation strategies are proposed as a potential means of compliance only and are discussed at length in the staff report. Removal efficiencies, siting, and sizing constraints are considered as part of the compliance strategy discussed in the cost assessment section.
19.15	City of Los Angeles	5/12/05	Will the current GISP monitoring program, which covers the City's DCT and LAG WRPs, now have to include the metals of concern? If so, do the WPRs have to develop their own implementation strategies?	The BPA and staff report state that the POTW waste load allocations will be implemented through their NPDES permits. Compliance with effluent limits set to

No.	Author	Date	Comment	Response
				achieve waste load allocations and monitoring requirements will be addressed through the permitting process.
19.16	City of Los Angeles	5/12/05	The Board should recognize the limitations of the implementation strategies discussed in the staff report. They may not reduce other pollutants of concern as efficiently due to the different requirements of each BMP for pollutant removal. The Regional Board should consider land requirements and costs to address the need for control influent flowrate for infiltration trenches. The Board should be specific on what the O&M cost includes.	See response to comment Nos. 3.5 and 19.14. O&M costs are provided in the staff report and are discussed further in the references for the cost assessment section. The EPA-estimated infiltration O&M costs include inspections, sediment removal, and total rehabilitation upon failure. The EPA-estimated sand filter O&M costs include media replacement and disposal, removal of debris and vegetative growth.
19.17	City of Los Angeles	5/12/05	The Board should provide a map for clarity to represent subwatersheds for reaches and tributaries of the LA River.	A subwatershed map has been developed for the purposes of assigning jurisdictional groups.
19.18	City of Los Angeles	5/12/05	The City does not feel that the BMPs used to meet Trash TMDL requirements will reduce a significant amount of sediments/metals.	Some sediment and associated pollutant removal has been reported in vortex separation BMPs and other full-capture devices. The staff report merely states that it is important to document reductions in metals loading already being achieved via BMPs currently employed under the Trash TMDL.
19.19	City of Los Angeles	5/12/05	The Board should lead the charge to develop alternative materials for brake pads.	Comment noted.
19.20	City of Los Angeles	5/12/05	The Board should address associated construction costs for similar types of diversion and treatment projects such as SMURFF.	Diversion and treatment was not analyzed as a potential means of compliance for the

No.	Author	Date	Comment	Response
				purposes of the cost assessment. Diversion and treatment is proposed as a potential means of compliance only. For further discussion of costs and BMP selection, see responses to comments on the July 12, 2004 draft – comment Nos. 6.14 and 6.16.
19.21	City of Los Angeles	5/12/05	The cost should include the costs to retrofit existing structures, rather than the installation in new undeveloped areas.	The BMPs discussed in the staff report could be applied to retrofitting existing structures and urbanized areas. The EPA and FHWA costs did not differentiate between new construction and retrofitting. However, costs of retrofitting were specifically considered in the staff report. The costs reported by the Caltrans BMP retrofit pilot program are discussed in the cost assessment section of the staff report. The third party review of the report attributed the higher Caltrans costs to the small scale and accelerated nature of the pilot program. Based on this review, it is not clear that retrofit costs would necessarily be any higher.
19.22	City of Los Angeles	5/12/05	The TMDL should be reconsidered in the 6 <sup>th</sup> year as originally stated in the first draft.	The TMDL is considered five years after the effective date of the TMDL, prior to the first compliance milestone.
19.23	City of Los Angeles	5/12/05	There is a typographical error on page 20 of the staff report: ‘Donald G. Tillman Water...’	Typographical errors have been corrected.
20.1	City of	5/12/05	An Implementation Schedule is proposed in Exhibit 1 and interim limits	See responses to comments on the July 12,

No.	Author	Date	Comment	Response
	Burbank		are proposed in Exhibit 2. Interim Limits and an implementation schedule are needed because there has been a change in the way hardness is used to calculate chronic criteria, the ongoing development of a WER study, the development of the IRP, and the time required to design, bid, build and start-up an advanced treatment process, if necessary.	2004 draft – comment No. 1.2.
20.2	City of Burbank	5/12/05	The proposed TMDL does not include sufficient discussion regarding the implementation strategy or any associated costs of additional treatment that will be incurred at the POTWs to meet these allocations. The TMDL should include language that addresses these necessary upgrades and takes into account the projected costs of compliance. Exhibit 3 has provides the language that can be inserted into the TMDL.	See responses to comments on the July 12, 2004 draft – comment Nos. 1.2. and 1.20.
20.3	City of Burbank	5/12/05	The proposed TMDL includes an allocation for cadmium although impairment does not exist, even in wet weather (3 exceedances out of 42 storm water samples.)	See responses to comments on the July 12, 2004 draft – comment No. 2.3.
20.4	City of Burbank	5/12/05	The proposed TMDL should focus on BMPs for storm water rather than numeric limits and compliance monitoring. All references to numeric limits for evaluation of wet weather compliance by MS4 stormwater programs and Caltrans should be removed, as there is insufficient evidence that numeric limits for stormwater can be feasibly attained or even scientifically monitored.	See responses to comments on the July 12, 2004 draft – comment No. 1.3.
20.5	City of Burbank	5/12/05	The Regional Board failed to adequately comply with CEQA. The Regional Board has not provided any evidence in the record that it complied with the requirements of Public Resources Code section 21159 and 23 C.C.R. section 3777. The Environmental Impacts checklist and discussion of Environmental Evaluation fail to provide any explanation or grounds supporting the conclusions that no potential, short-term significant, or cumulative environmental impacts may be	See responses to comments on the July 12, 2004 draft – comment No. 2.23.

No.	Author	Date	Comment	Response
			<p>associated with this TMDL. Furthermore, these conclusions contradict the Regional Board's later declaration the "specific projects employed to implement the TMDL may have significant impacts," and defers these projects to a "separate environmental review." This deferral of review is contrary to reviewing the cumulative impacts at the earliest possible point.</p> <p>The implementation of the TMDL may cause potentially substantial adverse changes in the environment that have not been adequately addressed and for which no alternatives or mitigation measures have been analyzed, suggested, or required.</p>	
20.6	City of Burbank	5/12/05	The cost analysis is underestimated because it does not account for the costs of treating 60% of the watershed (through an integrated resources program and other implementation measures), dry-weather diversions, land acquisition, special studies, or financing capital improvements.	See response to comment No. 3.5.
20.7	City of Burbank	5/12/05	The requirement that every storm event meet CTR limits is imposed even though the TMDL state that substantial metals reductions occur when improvements are designed to the 0.5 inch storm size standards, and even though costs of treatment increase exponentially as storm size increases.	Staff commits to addressing the issue of a maximum design storm for BMP compliance through the wet-weather task force. Based on the task force's recommendation, staff will bring the definition of a storm that will address multiple TMDLs to the Board for their consideration as a Basin Plan amendment.
20.8	City of Burbank	5/12/05	The TMDL should reflect the fact that the cities affected by the TMDL will be in compliance so long as they implement the iterative BMPs that are consistent with the maximum extent practicable (MEP) standard.	See responses to comments on the July 12, 2004 draft – comment No. 2.18.
20.9	City of Burbank	5/12/05	The default CTR translators do not <u>demonstrate</u> that during dry-weather, metals loading are predominately in the dissolved phase. The staff report	The staff report has been revised to make this change.

No.	Author	Date	Comment	Response
			should be revised to reflect this.	
20.10	City of Burbank	5/12/05	The TMDLs fail to state how sand filters would be sited, how many would be required per acre of residential area, and how large they would have to be, and fails to provide a cost/benefit analysis for land acquisition, filter cost, and construction of underground storage vaults and detention basins and metals loading removal.	See response to comment No. 3.5
20.11	City of Burbank	5/12/05	The TMDL should be revised to define an upper limit for treatment of peak flows similar to the limit established in the L.A. River Trash TMDL.	See response to comment No. 20.7.
21.1, 21.17, 21.26, 21.29, 21.92	City of Signal Hill	5/12/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that ‘if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this. The TMDL should reflect the fact that the cities affected by the TMDL will be in compliance so long as they implement the iterative BMPs that are consistent with the maximum extent practicable (MEP) standard.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 2.18, 6.4, and 16.7.
21.2, 21.18, 21.25, 21.92	City of Signal Hill	5/12/05	The proposed implementation strategies contradict EPA’s response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing ‘end-of-pipe’ treatment facilities to comply with toxic standards.	See response to comments on the July 12, 2004 draft – comment Nos. 16.11.
21.3, 21.26, 21.28, 21.34,	City of Signal Hill	5/12/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions, and atmospheric deposition. The source assessment discussion of storm water focuses exclusively on the transport system – not the sources of	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1 See also response to comment No. 1.21.

No.	Author	Date	Comment	Response
21.45, 21.50			loads accumulated on land surfaces.	
21.4, 21.37, 21.51, 21.59, 21.60	City of Signal Hill	5/12/05	The shared waste load allocation for the Caltrans and MS4 permittees does not recognize the unique difference between the communities and sub-watersheds. The source assessment section must be strengthened to better define the sources of pollutants causing the impairments. The source assessment section does not support the development of an implementation strategy.	See responses to comment Nos. 1.21 and 3.4.
21.5, 21.68, 21.69, 21.71, 21.74, 21.79, 21.86	City of Signal Hill	5/12/05	The cost analysis is underestimated because it does not account for the costs of treating 60% of the watershed (through an integrated resources program and other implementation measures), dry-weather diversions, land acquisition, special studies, surge control, storage vaults, implementation of the IRP, or financing capital improvements. It does not consider retrofits and design storms greater than 0.5 inches. It does not include the costs of addressing indirect atmospheric deposition.	See response to comment No 3.5.
21.72, 21.73	City of Signal Hill	5/12/05	The assumption that 20% of the watershed could be treated through infiltration is inconsistent with what is known about soils in the Los Angeles River watershed, which have low infiltration rates.	See response to comment No. 1.6.
21.70	City of Signal Hill	5/12/05	The TMDLs document fails to discuss how cities will be able to afford high costs of compliance.	Economics have been extensively considered in developing the TMDL implementation program. For example, the TMDL recognizes that the use of BMPs will be the anticipated means of compliance for municipal dischargers--which makes clear that we do not expect costly treatment plants to be pursued initially. The TMDL also provides a lengthy implementation period which reflects the economic

No.	Author	Date	Comment	Response
				considerations that a longer period of time will allow a cost-effective mix of implementation measures and BMPs to be developed and tested. A shorter timeframe would likely trigger a need for treatment plants. Economics were plainly considered in proposing the TMDL; otherwise, the regional board would not have delayed compliance with the MS4 final waste load allocations for 22 years.
21.6, 21.24, 21.77, 21.78, 21.83	City of Signal Hill	5/12/05	These TMDLs need to include a definition of maximum design storm that, if implemented, will ensure compliance.	See response to comment No. 20.7.
21.7	City of Signal Hill	5/12/05	The TMDL should reflect the fact that the cities affected by the TMDL will be in compliance so long as they implement the iterative BMPs that are consistent with the maximum extent practicable (MEP) standard.	See response to comments on the July 12, 2004 draft – comment No. 2.18.
21.8, 21.88	City of Signal Hill	5/12/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos.2.23 and 8.16 through 8.27.
21.9	City of Signal Hill	5/12/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be completed for the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 6.17.
21.10	City of Signal Hill	5/12/05	The CEQA review does not discuss viable alternatives and their impacts, such as a no project alternative, assigning load allocations to the National Park Service, assigning a load allocation to industrial	See responses to comments on the July 12, 2004 draft – comment No. 6.21.

No.	Author	Date	Comment	Response
			sources, and a non-structural BMP approach.	
21.11, 21.23	City of Signal Hill	5/12/05	The FED improperly defers evaluation of actual impacts of the project and associated mitigation measures to the cities.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
21.12, 21.19	City of Signal Hill	5/12/05	The unwillingness of local voters to fund new storm water fees (Charlton Research Company, 2002) makes it all the more critical that the Regional Board consider sections 13000 and 13241 of the Porter-Cologne Act.	See responses to comments on the July 12, 2004 draft – comment No. 6.14.
21.13, 21.65, 21.66, 21.67, 21.75	City of Signal Hill	5/12/05	EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis. The decision in the City of Burbank v. State Water Resources Control Board No. S1119248 mandates that a full economic analysis under section 13241 be conducted when the regulations imposed by the state exceed federal requirements.	See response to comment No. 3.11.
21.14	City of Signal Hill	5/12/05	The Board members that were not members of the Board when the 1999 EPA Consent Decree was entered into to should consider whether the CTR, existing EPA regulations, and State regulations allow flexibility in application and implementation.	See response to comment No. 3.12.
21.15, 21.31	City of Signal Hill	5/12/05	The technical and scientific concerns raised by the peer reviewers were not addressed in the recent TMDL staff reports.	See response to comment No. 3.13.
21.16	City of Signal Hill	5/12/05	The Board should delay adoption of the TMDL until major concerns are addressed. The Board should also delay implementation. The first phase of implementation should focus on the Regional Board partnering with other agencies to address atmospheric deposition as a source and conducting special studies. The cities will need time to complete the implementation plan, conduct special studies, and arrange for financing	See response to comment No. 3.14.

No.	Author	Date	Comment	Response
			prior to making progress towards achievement of wet-weather allocations.	
21.20, 21.47, 21.58	City of Signal Hill	5/12/05	Structural BMPs should be deferred until the Regional Board, State Board, ARB, SCAQMD, and EPA have completed necessary source studies and developed source control regulations for atmospheric deposition.	See response to comment No. 3.14.
21.21	City of Signal Hill	5/12/05	The remaining responsibilities for metals programs should be shared by all parties.	Waste load allocations and load allocations have been assigned to all point and nonpoint sources in the watershed.
21.22, 21.54	City of Signal Hill	5/12/05	The cities should not be made to pay for and conduct all of the special studies.	See responses to comments on the July 12, 2004 draft – comment No. 13.11.
21.27	City of Signal Hill	5/12/05	The State Board is moving towards removing REC-1 and REC-2 beneficial uses from concrete lined channels. The imposition of numeric limits on storm water raises the issue of “appropriateness” and “reasonableness” of these standards.	This comment is not applicable to the proposed TMDLs because the TMDLs are set to protect beneficial uses associated with aquatic life, not REC-1 or REC-2. Aquatic life-related beneficial uses are viable in concrete lined channels and are entitled to the protection afforded in national policy that discharges of toxic pollutants in toxic amounts shall be prohibited. Regional Board staff believe it is reasonable and appropriate to carry out the express requirements of Congress to establish TMDLs at a level that implement existing water quality standards (33 U.S.C. 1313(d)(1)(C)) and to carry out national policy to prohibit the discharge of toxic pollutants in toxic amounts (33 U.S.C.

No.	Author	Date	Comment	Response
				1251(a)(1)(3).) The commentor's assertion that the State Board is 'moving towards' removing REC-1 and REC-2 beneficial uses is not true. As a result of Regional Board actions two years ago, contact recreational uses are suspended during high-flows, and only under very specific circumstances.
21.30	City of Signal Hill	5/12/05	The dry-weather numeric targets are even more stringent than the CTR for copper in Bell Wash, and Reaches 3, 4, 5, and 6.	This assertion is not true. The CTR default chronic criteria is 9 µg dissolved copper/L. The hardness adjusted dissolved targets for Bell Creek and Reaches 3, 4, 5, and 6 are 29, 21, 19, and 29 µg dissolved copper/L, respectively. The total targets (upon which WLAs are based) are even higher.
21.32	City of Signal Hill	5/12/05	There is an enormous amount of uncertainty in the relationship between rainfall intensity and soil detachment and transport that the model purports to characterize.	See responses to comments on the July 12, 2004 draft – comment No. 6.39.
21.33	City of Signal Hill	5/12/05	The wet-weather model underestimates the loading from open space.	See responses to comments on the July 12, 2004 draft – comment No. 6.39.
21.35, 21.48, 21.49	City of Signal Hill	5/12/05	The Source Assessment section should include detailed information on the industries permitted under the general industrial permit that have the potential for metals loadings, including maps of the location of all permitted discharges.	This level of detail is beyond the required scope of the Source Analysis. The staff report demonstrates that all sources have been considered and that there is an understanding of pollutant loading sources and the amounts and relative timing of pollutant discharges. The TMDL relies upon and references the State storm water

No.	Author	Date	Comment	Response
				database, which includes addresses of permittees under the general permits.
21.36	City of Signal Hill	5/12/05	The MTA permit discussed in the source analysis section has no monitoring data showing constituents in the discharge.	Comment noted. The permit limits and potential for metals loading is discussed in detail in the staff report.
21.38	City of Signal Hill	5/12/05	Since the wet-weather WLAs are based on flows and hardness values in Reach 1, there should be alternative methods of determining compliance at years 6, 14, 18, and 22.	While multiple alternatives for determining compliance may exist, staff proposes that a phased, area-based reduction is appropriate for the metals TMDL. The comment did not provide information to adequately define the proposed alternative nor to persuade staff the alternative methods for determining compliance provided any benefit over the method outlined in the draft TMDL.
21.39, 21.62, 21.63, 21.64, 21.80	City of Signal Hill	5/12/05	Load allocations for nonpoint sources are not assigned to any particular entity. The cost analysis did not review the necessary compliance costs.	The Regional Board will implement load allocations through the authority contained in sections 13263 and 13269 of the Water Code and in conformance with the SWRCB Nonpoint Source Implementation and Enforcement Policy. See response to comment Nos. 3.5 and 21.21.
21.40	City of Signal Hill	5/12/05	There is no technical or logical justification for developing TMDL allocations for unlisted reaches. The argument that these reaches “contribute” to exceedances in listed reaches is not scientifically supportable. The very fact that these unlisted upstream reaches were not listed means that metals concentration data collected in them indicate that they have relatively good water quality. If these reaches have fairly	See response to comment No. 1.16.

No.	Author	Date	Comment	Response
			good water quality, in what sense are they significant contributors to poor water quality downstream?	
21.41	City of Signal Hill	5/12/05	The specific ambient monitoring points should be revised to include monitoring of Tujunga Wash, Burbank Western Channel, Rio Hondo Reach 1, and Compton Creek.	Comment noted. Jurisdictional groups will submit a monitoring plan that identifies ambient monitoring points. The locations listed in the BPA and staff report are suggested monitoring points only.
21.42	City of Signal Hill	5/12/05	Section 8.2 of the staff report should be revised to specify that alternatively, compliance with the TMDLs may be assessed in the receiving water at the point of discharge for the storm drain outlet consistent with the requirements of CFR 131.8c.i.)	This revision is not needed. The section in question already states that “The storm water NPDES permittees will be found to be effectively meeting the dry-weather waste load allocations if the <i>in-stream</i> pollutant concentration or load at the first downstream effectiveness monitoring location is equal to or less than the corresponding concentration- or load-based waste load allocation.” (emphasis added) Compliance assessment at the storm drain outlet is only suggested as a potential alternative.
21.43	City of Signal Hill	5/12/05	The State has not demonstrated that the current effluent limitations are not stringent enough to implement the metals water quality objectives (i.e., that these TMDLs are not even necessary.)	The proposed TMDLs and upstream WLAs, are necessary to protect beneficial uses and to achieve water quality objectives set to protect these uses. The TMDL is a program of implementation for an existing water quality objective and is necessary under Water Code section 13242. Moreover, as detailed at length in the TMDL document,

No.	Author	Date	Comment	Response
				Basin Plan amendment, and response to comments, the TMDL is necessary to comply with section 303(d)(1)(C) of the Clean Water Act
21.44	City of Signal Hill	5/12/05	To calculate numeric limits for storm flows, the frequency, duration, and magnitude of storm water discharges must be considered, but no acceptable methodology exists to support the modeling of these processes.	The wet-weather loading capacity and waste load allocations for storm water vary with flow.
21.52	City of Signal Hill	5/12/05	The TMDLs contain a very unrealistic time schedule for cities to comply.	Staff believes that the 22-year phased implementation plan, with the first compliance milestone to occur 6 years after the effective date of the TMDL, and special studies due 4 years from the effective date of the TMDL, allow time to make progress towards achieving waste load allocations.
21.53	City of Signal Hill	5/12/05	The implementation plan should not be required until special studies are completed.	The deadline for submittal of the implementation plan has been extended to 24 months. However, cities need to move forward with implementation as soon as possible based on the information provided in the TMDL. Cities can revise implementation plans when new information becomes available.
21.55	City of Signal Hill	5/12/05	The TMDL will result in unknown costs to local government of developing and implementing a water quality monitoring plan.	See responses to comments on the July 12, 2004 draft – comment No. 1.16.
21.56	City of Signal Hill	5/12/05	The implementation plan will be difficult to coordinate between 42 cities.	See response to comment No. 3.4.
21.57	City of Signal	5/12/05	The implementation schedule should be adopted using iterative	See response to comment No. 20.7.

No.	Author	Date	Comment	Response
	Hill		benchmarks that would extend for the life of the TMDLs. The Board must allow for the overflow of municipal storm drain facilities during extreme events.	
21.61	City of Signal Hill	5/12/05	The initial implementation strategy should focus on direct industrial discharges to Compton Creek and Rio Hondo Reach 1.	Comment noted. Jurisdictional groups will submit an implementation plan for their group.
21.76, 21.87	City of Signal Hill	5/12/05	The provision that allows POTWs to avoid mass—based limits when inflow exceeds design capacity should also apply to storm water discharges.	See response to comment No. 20.7.
21.81	City of Signal Hill	5/12/05	Dry-weather diversion to sewer trunk lines may not be feasible.	Comment noted.
21.84 and 21.85	City of Signal Hill	5/12/05	The TMDL presents no evidence that the cities will be able to comply by implementing ‘non-structural’ controls and the cities will be forced to construct treatment devices.	See responses to comments on the July 12, 2004 draft – comment No. 6.14, 6.16, and 7.4.
21.89	City of Signal Hill	5/12/05	The Regional Board may only establish TMDLs for the 18 segment/pollutant combinations listed as impaired on the 1998 303(d) list and as included as part of analytical unit 13 on the Consent Decree.	TMDLs are required for impaired water bodies. No authority supports the commenter’s contention that the Regional Board is limited to considering the analytical unit 13 of the Consent Decree. While that analytical unit indicates what USEPA must adopt in order to avoid sanctions, the development of TMDLs for impaired water bodies remains a legal obligation of the regional board. As detailed extensively throughout the TMDL and responses to comments, the TMDLs are established for impaired waters or for

No.	Author	Date	Comment	Response
				<p>tributaries that cause or contribute to an impairment in the downstream, listed water bodies. The Commenters' suggestion is contrary to the thrust of the Clean Water Act, as it would require all water bodies to become impaired before they could be protected. It would also prevent coordinated control of water quality problems. Most importantly, it may prevent the attainment of water quality standards in impaired water bodies if the upstream sources of the impairment could continue. This latter point is especially true of persistent elements, such as the metals addressed by this TMDL. Finally, as an implementation program for an existing water quality objectives, the TMDLs are clearly permissible at any time under Water Code section 13242. The wholistic approach of addressing all known impairments in a comprehensive action makes the best use of state and local agency resources.</p>
21.90	City of Signal Hill	5/12/05	The TMDL inappropriately develops TMDLs for reaches where recent data indicates impairments and develops allocations for upstream reaches and tributaries that drain into impaired reaches.	See responses to comments on the July 12, 2004 draft – comment No. 2.7.
22.1	City of San Gabriel	5/12/05	The CEQA checklist cannot be considered a functional equivalent because it is outdated and does not follow the current CEQA checklist	See response to comment No. 3.9.

No.	Author	Date	Comment	Response
			recommended by Cal EPA. The outdated checklist is not as detailed as the current checklist and it limits environmental impact responses to yes, maybe, and no.	
22.2	City of San Gabriel	5/12/05	The determination made in the CEQA checklist that the metals TMDL could not have a significant effect on the environment, even though it marked “yes” in several checklist categories, is conflicting. The suggestion that any project level adverse impacts could be dealt with by lead agencies contradicts the fact that the municipal MS4 permit is not subject to CEQA. The City disagrees that all structural controls mentioned in the TMDL can be mitigated through proper design.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
22.3	City of San Gabriel	5/12/05	The CEQA evaluation does not adequately address adverse water quality impacts, such as the impact of contaminants contained in runoff discharged to the sub-surface through infiltration controls.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.8.
22.4	City of San Gabriel	5/12/05	The CEQA evaluation does not adequately address adverse impacts to land use. It does not provide detail as to how land use would be altered. Without an explanation, mitigation measures can only be marginally discussed.	See response to comment No 4.4.
22.5	City of San Gabriel	5/12/05	The CEQA evaluation does not adequately address adverse impacts to public service. The potential adverse impacts of compliance costs on fire and police protection and parks, road maintenance, library services, senior citizens and youth programs, etc, by diversion of funds are not discussed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16 through 8.18.
22.6	City of San Gabriel	5/12/05	The CEQA evaluation does not adequately address adverse impacts to public service - maintenance. It is not clear how maintenance relates to public service within a municipal context. The potential adverse impacts of compliance costs on repairing and maintaining roads and other infrastructure by diversion of funds is not discussed.	See responses to comment No. 4.6.
22.7	City of San	5/12/05	The CEQA evaluation does not adequately address adverse impacts to	See responses to comment No. 4.7.

No.	Author	Date	Comment	Response
	Gabriel		public service – other governmental services. The potential adverse impacts of compliance costs on governmental services by diversion of funds is not discussed.	
22.8	City of San Gabriel	5/12/05	The CEQA evaluation does not adequately address adverse impacts to energy. The potential adverse impacts of compliance costs on energy by diversion of funds is not discussed.	See responses to comment No. 4.8.
22.9	City of San Gabriel	5/12/05	The CEQA evaluation does not adequately address adverse impacts to human health. The proposed mitigation measures are unrealistic and impractical. No design precautions, siting, or maintenance would do anything to prevent mosquito breeding.	See response to comment No. 4.9.
23.1	Chevron	5/12/05	Chevron supports and incorporates by reference the comments submitted by WSPA dated August 26, 2004 and May 12, 2005.	See response to WSPA comments.
23.2	Chevron	5/12/05	With respect to Chevron's Van Nuys terminal, the TMDL treats this facility more stringently than every other storm water discharger because it is enrolled under an individual permit, especially since wastewater discharges from the facility no longer exist and the facility only discharges runoff.	The staff report and BPA have been revised to state, "Permittees that hold individual NPDES permits and solely discharge storm water may be allowed (at Regional Board discretion) compliance schedules up to 10 years from the effective date of the TMDL to achieve compliance with final WLAs." This allows individual NPDES permits for storm water the same compliance period as the general storm water permits. This change acknowledges staff's intent to enroll many of the individual NPDES permits for storm water into the watershed-specific general storm water permit, upon adoption of the general permit.
24.1	California	5/12/05	This comment applies to the Ballona Creek Toxic Pollutants TMDL.	N/A.

No.	Author	Date	Comment	Response
	Coalition for Clean Water			
24.2	California Coalition for Clean Water	5/12/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that “if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, and 16.7.
24.3	California Coalition for Clean Water	5/12/05	The TMDLs are based on a never-to-be-exceeded numeric limit that fails to recognize the inherent variability in storm flows.	See response to comment No. 20.7.
24.4	California Coalition for Clean Water	5/12/05	The draft interim benchmark approach is too short. The benchmarks should not be considered enforceable limits.	The benchmarks shall become enforceable permit conditions five years from the effective date of the TMDL. However, please note that the TMDL has been revised to state that permit conditions may be complied with through the installation, maintenance, and monitoring of Regional Board-approved BMPs. At five years from the effective date of the TMDL, permittees would begin the iterative process to meet the final WLAs. If benchmarks were still just a trigger after five years, permittees would not be able to work their way towards compliance with the final WLAs. Please note that the BPA and staff report have been revised to also state that the final

No.	Author	Date	Comment	Response
				WLAs will be expressed as permit conditions, such as the installation, maintenance, and monitoring of Regional Board-approved BMPs.
24.5	California Coalition for Clean Water	5/12/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as vehicular related atmospheric deposition. The Regional and State water boards should work with EPA to address source control issues instead of forcing unnecessary capital improvement projects upon local governments and other permittees.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1. Staff has met with the South Coast Air Quality Management District, Southern California Coastal Water Research Project, Southern California association of Governments, and LA County Department of Public Works to discuss aerial deposition issues. Participants in the meeting agreed to meet quarterly to address these issues.
24.6	California Coalition for Clean Water	5/12/05	The Board has failed to prepare a complete functionally equivalent document, which is not equivalent to an EIR.	See responses to comments on the July 12, 2004 draft – comment No. 6.21.
24.7	California Coalition for Clean Water	5/12/05	EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis. The decision in the City of Burbank v. State Water Resources Control Board No. S1119248 mandates that a full economic analysis under section 13241 be conducted when the regulations imposed by the state exceed federal requirements.	See response to comment No. 3.11.
25.1	WSPA	5/12/05	In general, WSPA agrees with this benchmark-based BMP approach as provided for the first five years (although, as noted below, more clarity	Comment noted. The staff report and BPA have been revised to add more clarity

No.	Author	Date	Comment	Response
			and detail is needed regarding how the BMP process will be triggered and implemented).	regarding how the BMP process will be triggered and implemented. See response to comment Nos. 24.4.
25.2	WSPA	5/12/05	EPA does not regard benchmark levels as an appropriate basis for permit limits, or their exceedance as grounds for enforcement action. WSPA urges the Regional Board to eliminate the enforcement of benchmark-based permit limits in the second half of the interim period. Throughout the interim period, benchmarks should remain a trigger for evaluating BMPs, as provided in the federal Multi-Sector General Permit in which these benchmark levels were originally developed.	See response to comment Nos. 24.4.
25.3	WSPA	5/12/05	No legal or equitable basis is presented for providing MS4s and Caltrans permittees with an implementation schedule that is more than twice the 10 year duration of benchmark-based WLAs for industrial and construction general permittees. In fairness, WSPA recommends that all sources receive the same 22-year implementation schedule.	Facilities subject to the industrial and construction general permits are much smaller than the MS4 and Caltrans permittees, with more consistent sources of metals loadings and fewer responsible agencies to coordinate.
25.4	WSPA	5/12/05	There is no legal or policy basis for treating permittees under individual NPDES and other general permits differently from those covered by the industrial and construction general permits. WSPA urges the Regional Board to apply the benchmark-based interim WLAs – revised as suggested above to be implemented as benchmarks triggering BMP evaluation (and not enforceable limits) through the entire interim period – reasonably and equitably to all industrial storm water discharges, whether or not covered by the general permits.	See response to comment Nos. 23.2 and 24.4.
25.5	WSPA	5/12/05	However, there is no WLA for individual NPDES permits solely for discharge of storm water. This class of discharges appears to have been inadvertently omitted. An allocation must be provided for these permittees. Consistent with our previous comment, the same	See response to comment No. 23.2.

No.	Author	Date	Comment	Response
			implementation schedule should be fairly applied to such discharges, with the benchmark-based interim WLAs, triggering BMP evaluation, in effect for the same interim period as for other classes of permittees.	
25.6	WSPA	5/12/05	It is highly likely that the remediation treatment discharges would not consistently meet limits based on the concentration-based WLAs as proposed in the Metals TMDLs. We urge the board to provide for the appropriate implementation, including use of monthly averages and an interim implementation schedule (again, applying the benchmark-based interim WLAs, triggering BMP evaluation, for the same interim period as for other classes of permittees), to allow remediation permittees for UST remediation projects sufficient time to adequately monitor, assess and implement appropriate treatment or other options to meet the WLA.	Other NPDES permittees are allowed compliance schedules up to 5 years to meet permit requirements established to implement the WLAs.
25.7	WSPA	5/12/05	There is no basis to establish a strict WLA equal to zero, to be achieved by entirely eliminating routine and minor dry weather discharges. The Regional Board has done no analysis to demonstrate that it is feasible to implement “improved BMPs to eliminate the discharge” of all such non-storm water flows; nor has it considered the cost of doing so as required by law. At a minimum, should the zero WLA for dry weather discharges be retained (or modified to another numeric WLA), in fairness it should be accompanied by the same interim implementation schedule as is provided for wet weather discharges.	The BPA and staff report have been revised to state that non-storm water flows authorized by Order No. 97-03 DWQ are exempt from the dry-weather waste load allocation equal to zero. Instead, these authorized non-storm water flows shall meet the reach-specific concentration-based waste load allocations assigned to the “other NPDES permits”. The dry-weather waste load allocation equal to zero applies to unauthorized non-storm water flows, which are prohibited by Order No. 97-03 DWQ. Staff recognizes that dry-weather flows are already regulated by the general permit. One of the general permit conditions is that the discharge may not

No.	Author	Date	Comment	Response
				contribute to an exceedance or violation of water quality standards. Assigning the same dry-weather WLAs as the ‘other NPDES permits’ to these dry-weather flows provides insurance that the flows will not contribute to or cause an exceedance of the water quality standards and specifically the CTR.
25.8	WSPA	5/12/05	Based on other statements in the Basin Plan amendments, it appears that what the Regional Board actually contemplates is the imposition of both interim (in the second five years, when benchmarks become enforceable) and final WLAs directly as numeric effluent limits in permits. If the Regional Board does not intend to impose interim and final WLAs directly as numeric effluent limits, that intent must be stated more clearly in the Basin Plan amendments and the TMDL. The attached Flow Science Report: <i>Storm Water and Best Management Practices Analysis</i> (February 2, 2005) demonstrates that continued reliance on BMPs remains technically justified, and that determining scientifically defensible numeric limits for storm water discharges remains infeasible.	See response to comment Nos. 24.4 and 25.1. Staff does not intend to impose interim and final waste load allocations directly as numeric effluent limits. The fact that a WLA shall be expressed as a WQBEL does not require a numeric WQBEL--the SWRCB has said that in its Los Coyotes/Long Beach decisions and the Court of Appeal said it in the Tesoro case. Additional language has been added explaining that effluent limitations may be expressed as permit conditions, such as the installation of Regional Board-approved BMPs. However, consistent with USEPA’s November 22, 2002 guidance memorandum on TMDLs and storm water, there must be sufficient information available to the NPDES permit writer to justify using BMPs. As a result, the actual permit conditions will be established on a case-by-

No.	Author	Date	Comment	Response
				case basis consistent with applicable federal law.
25.9	WSPA	5/12/05	WSPA recommends that the Metals TMDLs be revised to clarify that EPA's standard for triggering the BMP process – i.e., monitoring results “considerably above benchmark levels” – will apply and that analytic results from a single grab sample will not be considered as exceedances. In addition, we ask that the Regional Board identify the process by which design criteria for implementing appropriate and cost-effective structural BMPs will be determined. In addition, it should be clear that storm water volumes in excess of the design criteria would be authorized to by-pass the structural BMPs without being considered in non-compliance with the WLAs.	Language has been added to the staff report and BPA clarifying how monitoring will trigger the BMP process. See also response to comment Nos. 20.7.
25.10	WSPA	5/12/05	If, per the comments above, it is the Regional Board's intent to apply these WLAs in the form of numeric limits, rather than relying on BMPs, then the inevitable outcome will be that the CTR criteria will be applied inappropriately as not-to-be-exceeded, end-of-pipe limits, once the Metals TMDLs are adopted and NPDES permit limits must be consistent with the WLAs. EPA never intended that CTR be applied directly to storm water through effluent limitations.	See response to comment Nos. 24.4, 25.1, and 25.8.
25.11	WSPA	5/12/05	The modeling and analysis relied on as a justification for the TMDL does not appear to be either sufficient or appropriate to support the implementation of the proposed actions. WSPA respectfully requests that the Regional Board address each of these deficiencies identified in the attached FlowScience report, <i>Technical Review of Revised Total Maximum Daily Load for Metals, Los Angeles River and Tributaries, Published 3/28/05</i> .  Several peer review reports by independent scientists, which the	See response to Flow Science comments (Comment Nos. 25.15 to 25.31).  Peer review comments were included in the

No.	Author	Date	Comment	Response
			Regional Board was required to obtain pursuant to Health & Safety Code section 57004, reflected similar concerns with the technical analysis. WSPA was provided with copies of the peer review reports by Regional Board staff on April 27, 2005. WSPA incorporates Dr. Schroeder's report by reference in these comments and requests that the Regional Board justify its reasons for rejecting these criticism.	September 2, 2004 Board workshop package. Copies of peer review comments have also been provided upon request. The staff has made the peer review comments available, even though there is no requirement to allow public comments on the peer review. The Board has not rejected the comments of Dr. Schroeder, but has considered his comments and made revisions to the scientific portion of the TMDL, where appropriate. See separate response to peer review comments for details.
25.12	WSPA	5/12/05	<p>Because direct air deposition occurs at a constant rate it will constitute a larger proportion of the TMDL during lower flow events (which offer less dilution) and a smaller proportion of the TMDL during larger flow events (which offer more dilution). Therefore, the assumption that direct air deposition will represent a constant proportion of the TMDL (0.002) in wet weather is incorrect.</p> <p>The wet-weather LAs for open space were calculated using the highly uncertain wet-weather model. Insofar as the combined storm water allocation is dependent on the poorly calculated direct air deposition and open space contributions (as indicated in the revised TMDL staff report, p. 56), it is incorrect. The technical deficiencies in the open space analysis result in an extremely conservative and unjustified low LA, resulting in inappropriately greater WLAs to point sources.</p>	The load allocation for direct air deposition is expressed as a constant (in terms of kg/day) during dry weather. Atmospheric deposition during wet weather is not constant, but the relative amount of direct atmospheric depositions over water compared to the indirect atmospheric deposition over land is proportional, assuming similar rainfall. Staff assigned wet-weather allocations based on surface area. Therefore, the allocation, for direct atmospheric deposition over water is proportional to the surface area of the waterbody. If additional information is provided in the future as to the maximum amount of atmospheric deposition that can be deposited during a wet-weather day, the allocations may be revised accordingly. The total stormwater wet-weather allocation is based on the loading capacity as a function of flow and the applicable CTR criterion minus the sum of the

No.	Author	Date	Comment	Response
				allocation for direct atmospheric deposition and the allocation for open space. Contrary to Flow Sciences' assertion, the wet-weather model tends to overestimate—not underestimate--the contribution from open space during wet weather. This conservative estimate is applied to the implicit margin of safety because the overestimated load for opens space is subtracted from the total loading capacity, leaving less allowable load for the combined storm water sources.
25.13	WSPA	5/12/05	The inclusion of unlisted reaches in the TMDLs is technically unjustified and improper under the Clean Water Act. In the <i>Cities of Arcadia et al. v. State Board</i> case, the court rejected the claim that the Los Angeles Estuary could legitimately be included in the L.A. River trash TMDL.	See response to comment No. 1.16.
25.14	WSPA	5/12/05	WSPA incorporates herein by reference the remaining comments from our August 26, 2004 comment letter on the July drafts of the Metals TMDLs.	See response to comments on July 2004 draft.
25.15	WSPA	5/12/05	From attached Flow Science Report: The basis for the revision of figures 12a – 12d is not clear from the staff report.	The revision was made in response to previous comments. See responses to comments on the July 12, 2004 draft – comment No. 1.9 The staff report states that the figures represent allowable loads for a given storm volume, compared to model predicted loads, to aid storm water permittees in BMP design.
25.16	WSPA	5/12/05	From attached Flow Science Report: Some of the text describing the modeling report and model results was deleted from the staff report. Some of the text described the weakness of the model.	The wet- and dry-weather model reports, which discuss weaknesses of the models, are still included as attachments to the staff

No.	Author	Date	Comment	Response
				report. It was redundant to discuss them in detail within the main staff report, so the redundant text was removed.
25.17	WSPA	5/12/05	From attached Flow Science Report: The application of the wet weather model to calculate contributions from open space is questionable.	Limitations of the model are clearly stated in the staff report and the overestimation of the open space contribution is applied to the margin of safety.
25.18	WSPA	5/12/05	From attached Flow Science Report: On the whole, very little has changed with the Los Angeles River modeling approach since the previous version of the TMDL and our prior technical review and comments on the modeling remain appropriate (FSI, 2004).	No changes have been made to the modeling approach since the previous draft. See responses to comments on the July 12, 2004 draft – comment Nos. 6.29 – 6.40.
25.19	WSPA	5/12/05	From attached Flow Science Report: Our view of the wet weather modeling agrees substantially with that of peer reviewer Dr, Schroeder.	See separate response to peer review comments.
25.20	WSPA	5/12/05	From attached Flow Science Report: The SIP does not apply to regulation of storm water discharges. The reasonable potential and effluent limit calculation procedures provided for in the SIP are inappropriate for intermittent, highly variable, and complex nature of storm events. There is little or no support for applying CTR criteria directly to storm water discharges, as never-to-be-exceeded values, and without the consideration of dilution.	See responses to comments on the July 12, 2004 draft – comment No. 6.4.
25.21	WSPA	5/12/05	From attached Flow Science Report: It appears that the Board miscalculated the dry-weather numeric targets for reaches 3, 4, 5, and 6 and Bell Creek using the strict CTR methodology that was specified in the staff report.	Staff has reviewed their calculations and compared the numeric targets reported in the staff report with the alternative targets proposed by Flow Science. It appears as though Flow Science has miscalculated the numeric targets in Reaches 5 and 6 and Bell Creek by using the actual hardness values of these water bodies, which are above 400

No.	Author	Date	Comment	Response
				<p>mg/l as calcium carbonate. The CTR (section 131.38 (C)(4)) states that ‘For purposes of calculating freshwater aquatic life criteria for metals from the equations in paragraph (b)(2) of this section...For waters with a hardness of over 400 mg/l as calcium carbonate, a hardness of 400 mg/l as calcium carbonate shall be used with a default Water-Effect Ratio (WER) of 1, or the actual hardness of the ambient surface water shall be used with a WER.’ Since no WER was developed in any of these water bodies , a hardness value of 400 mg/l as calcium carbonate and a default WER of 1 was used. The staff report has been revised to make it clear that hardness values above 400 mg/l as calcium carbonate were not used in deriving numeric targets, as required by CTR. This was explained in the July 12, 2004 draft, but the explanation was omitted from the March 28, 2004 draft.</p> <p>Staff cannot explain the reason for the difference in the alternative numeric targets proposed by Flow Science in Reach 3 below LAG and Reach 4, but staff’s calculations have been verified by multiple reviewers and were found to be correct. The</p>

No.	Author	Date	Comment	Response
				spreadsheets with staff's calculations shall be included in the administrative index for the proposed TMDLs.
25.22	WSPA	5/12/05	From attached Flow Science Report: It appears that the Board has miscalculated the Los Angeles River wet-weather numeric targets for cadmium, copper, and zinc.	It appears as though Flow Science has miscalculated the wet-weather numeric targets using the wrong acute conversion factor. It appears as though they have used the translator (which converts the dissolved criteria to the total numeric target) rather than the acute conversion factor provided for in CTR.
25.23	WSPA	5/12/05	From attached Flow Science Report: The removal of dry weather load capacities for reaches and tributaries that are not impaired is an improvement from the previous draft. However a load capacity still remains for lead in Tujunga Wash, which is not impaired.	A waste load allocation for lead must be calculated for Tujunga Wash in order to address the downstream impairments in Reach 4. The numeric targets for lead are the same in Tujunga and Reach 4. Rather than calculating a lead loading capacity for Reach 4 that included the critical flow from Tujunga, then separating out the critical flow for Tujunga in order to calculate a waste load allocation, staff calculated two separate loading capacities. The resulting waste load allocation for Tujunga is the same for either method, so staff used the more streamlined approach. Furthermore, because Tujunga Wash is listed for copper, a loading capacity is calculated for copper. Consistent with a watershed-based, multi-

No.	Author	Date	Comment	Response
				pollutant approach, staff did not feel it was appropriate to calculate a load capacity for copper and not lead.
25.24	WSPA	5/12/05	From attached Flow Science Report: It is unclear why the curves in 12a through 12d are simply not linear. It may be that this apparent lack of linearity is simply due to the irregular storm volume intervals chosen for the plots or the combination of this irregularity with the fact that both the x- and y-axes in the plots are logarithmic.	The figures would be linear if they plotted volume versus load, but the figures show <i>storm</i> volume versus load. The x-axis is not continuous because it shows predicted individual storm events, sorted by size.
25.25	WSPA	5/12/05	From attached Flow Science Report: The general methodology used to account for contributions from open space and direct atmospheric deposition in dry-weather seems reasonable.	Comment noted.
25.26	WSPA	5/12/05	From attached Flow Science Report: The assumption in the revised staff report that direct air deposition will represent constant proportions of the total load in dry and wet weather is incorrect. The air deposition rate would be constant in both dry and wet weather, but the flows in the river are not.	See response to comment No. 25.12.
25.27	WSPA	5/12/05	From attached Flow Science Report: The wet-weather model underestimates loads from open space and seems a very thin basis on which to develop load allocations for open space areas.	See response to comment No. 25.12.
25.28	WSPA	5/12/05	From attached Flow Science Report: Because of the underestimated contribution from open space, actual metals fluxes from open space would be significantly higher than the open space load allocation, rendering compliance with the LAs and WLAs uncertain and beyond the control of the dischargers in the region.	See response to comment No. 25.12.
25.29	WSPA	5/12/05	From attached Flow Science Report: Because the POTWs are allowed to discharge at a concentration higher than the wet weather target at Wardlow in recognition of the limitations of treatment facilities, other dischargers (particularly storm water dischargers) should be provided	Storm water dischargers would not be required to reduce their discharge below acute CTR criteria during moderate storm events. The dry-weather numeric targets

No.	Author	Date	Comment	Response
			with a similar allowance for moderate and larger wet weather events. Particularly for moderate storm events where POTW flows remain a significant proportion of total flow, it seems unreasonable to require storm water dischargers to reduce their discharge concentrations below acute CTR criteria.	used for calculating the POTW copper waste load allocations are not significantly different from the copper wet-weather numeric target. The wet-weather target for lead is higher than the numeric targets used in calculating the POTW waste load allocations for lead.
25.30	WSPA	5/12/05	From attached Flow Science Report: While the mass-based allocations may be specified in the TMDL, the implementation and monitoring sections rightly acknowledge that most storm water allocations will effectively be end-of-pipe concentration based-limits equal to CTR criteria, which is discouraged within the CTR document.	See response to comments on the July 12, 2004 draft – comment Nos. 6.4 and 16.11.
25.31	WSPA	5/12/05	From attached Flow Science Report: The TMDL develops allocations for unlisted upstream reaches because they drain to downstream impaired reaches. The very fact that upstream reaches were not listed means that available data indicate that they exhibit relatively good water quality and will not cause or contribute to exceedances of water quality downstream.	See response to comment No. 1.16.
26.1	CASQA	5/12/05	The development of a watershed specific general permit for industrial and construction storm water permittees would create confusion and inefficiency in relationship to the statewide general permits because for many dischargers, operations are conducted in more than one region. CASQA is concerned with the precedent set by the Los Angeles Regional Board that may encourage other regional boards to adopt watershed specific permits when TMDLs are involved. This fragmented approach will lead to contentious public hearings, lack of coordination between the State and regional boards, and lost opportunities for	The Regional Board will work closely with the State Board to ensure an orderly implementation of the TMDLs. Staff believe general permits serve a valuable purpose for efficiency and consistency. However, federal and state law (including the existing permits) recognize that circumstances may require alternate general or individual permits, and general permits

No.	Author	Date	Comment	Response
			collaboration.	are only allowed to the extent they address similarly situated dischargers. When a discharger discharges to an impaired water body, it is in a different class than dischargers to unimpaired waters. As TMDLs are established, they are by necessity developed on a watershed basis. While staff believe a Regional Board-adopted general, watershed permit is the most efficient approach, the option to have the State Board incorporate watershed requirements into its general permit can be considered in the future.
26.2	CASQA	5/12/05	The water Boards attempt to pass along its responsibility to the MS4s for overseeing monitoring of industrial and construction dischargers further complicates the MS4's programs.	MS4 oversight of monitoring is only offered as a suggestion, but staff believes it would increase efficiency and encourage cooperation, and ultimately benefit the MS4 permittees.
26.3	CASQA	5/12/05	This comment is specific to the Ballona Creek toxic pollutants TMDL.	N/A
27.1	Baykeeper and Heal the Bay	5/12/05	The timeframes imposed by the draft TMDL are too relaxed. The implementation periods for the metals TMDLs for LA River and Ballona Creek should be no more than ten years, unless an integrated, watershed-based, multi-contaminant approach is taken. In this case the implementation plan should require year-round compliance no later than 2021, the same year when the Santa Monica Bay Beaches bacteria TMDL must be met. The Regional Board should also provide a more detailed definition of IWRP so that criteria for meeting IWRP, and therefore granting an extended implementation time (to 2021), are	The longer implementation schedules will facilitate compliance through an iterative, adaptive management approach which, if successful, would be significantly less costly than any containment and end-of pipe treatment strategy. Staff also acknowledges that not all areas within these watersheds are suitable for groundwater recharge, a key component of the IWRP. As described in

No.	Author	Date	Comment	Response
			clearly defined.	the Cost Analysis in the TMDL staff report, staff expect that a mixture of approaches including institutional, structural BMPs, and groundwater recharge will be required in different parts of the watershed based on local conditions.
27.2	Baykeeper and Heal the Bay	5/12/05	For the general industrial and general construction stormwater permits, setting five-year interim wet-weather limits and specifying an iterative BMP process for meeting final wasteload allocations is a sensible approach. However, the interim limits should be considered enforceable permit limits by the end of the first five years, since these are presumably the concentrations that these dischargers are already capable of meeting. If these are enforceable limits, then they represent measurable benchmarks as well as providing real incentive for general permittees to evaluate, appropriately design, and improve their BMPs when necessary.	Permittees will have enforceable permit conditions. They must install Regional-Board approved BMPs, which have been demonstrated to result in attainment of waste load allocations. The need to demonstrate the effectiveness of BMPs, which will attain WLAs and acquire Regional-Board approval, will provide the incentive to evaluate and improve BMPs in the first five years.
27.3	Baykeeper and Heal the Bay	5/12/05	The phased approach for the municipal stormwater permits is not as logical. There is no justification provided for the spatial approach to benchmarking the implementation of numeric limits in the municipal stormwater permits.	While multiple alternatives for determining compliance may exist, staff proposes that a phased, area-based reduction is appropriate for the metals TMDL. The language in the BPA and staff report requiring metals reduction in areas of the watershed “served by the storm drain system” ensure that permittees will address areas shown to have significant metals contributions first.
27.4	Baykeeper and Heal the Bay	5/12/05	The supposedly “conservative” choices made for total-to-dissolved metals conversion factors and for using a hardness value that is less than the CTR default hardness value for calculating the wet-weather metals	The use of the default dry-weather conversion factor is a conservative assumption. Evaluation of the WMP data

No.	Author	Date	Comment	Response
			targets do not qualify as MOSs, from either the technical or legal standpoints. Further, there are numerous other decisions within each of these TMDLs that are decidedly non-conservative. Because the MOSs are never quantified, we do not know if these non-conservative decisions in fact outweigh the implicit MOSs that the Regional Board claims exist. To remedy this, the Regional Board should include an explicit 10% margin of safety.	compared to the default conversion factor showed that the default conversion factor over estimates the fraction of metal in the dissolved form. The use of reach-specific hardness values is not applied to the margin of safety. Staff does not believe that other decisions in the calculation of the numeric target and WLAs were non-conservative or that they would outweigh the conservative assumptions used in the implicit margin of safety.
27.5	Baykeeper and Heal the Bay	5/12/05	Using the acute toxicity limits to determine wet-weather numeric targets is a non-conservative assumption. In addition, using median hardness concentrations to calculate the wet-weather numeric targets will lead to lethal wet-weather toxicity in the river <i>up to half the time</i> during storms. These two non-conservative decisions by the Regional Board will fail to protect aquatic life from the toxic effects of metals in stormwater runoff. There is no justification for providing such minimal protection of the aquatic life and recreational fishing beneficial uses in waters of the United States. The 10 <sup>th</sup> percentile hardness values should be used to calculate the wet-weather numeric targets based on CTR acute toxicity values, or the wet-weather numeric targets should be based on CTR chronic toxicity values, since wet weather events frequently last longer than the typical acute exposures used to develop acute toxicity limits.	The median wet-weather hardness value is less than the CTR default value, which is conservative. The acute values were selected as being more appropriate for wet-weather because exposures occur over a brief period.  Because of the variability in hardness values during wet weather, the 10th percentile of hardness data would not accurately represent the hardness values during storm water conditions.
27.6	Baykeeper and Heal the Bay	5/12/05	For dry-weather targets other than copper, the conversion factors are the CTR default values, which were very close to the conversion factors calculated using LA River data for both cadmium and zinc. Linear regressions did not show statistically significant relationships between	Using the CTR default conversion factors is a conservative assumption for lead. Evaluation of the WMP data compared to the default conversion factor showed that

No.	Author	Date	Comment	Response
			dissolved and recoverable metals for any of these metals. Therefore the CTR default values for these metals in dry weather were the only scientifically valid choice and were not selected to provide any margin of safety.	<p>the default conversion factor over estimates the fraction of lead in the dissolved form. When measured values of dissolved lead were plotted against measured values of total lead, most of the measured values fell below the line CTR-based trend lines <math>y = 0.79x</math> for lead.</p> <p>Dry-weather numeric targets are not developed for cadmium or zinc.</p>
27.7	Baykeeper and Heal the Bay	5/12/05	The site-specific conversion factor was calculated using a ‘site-specific partition coefficient (Kp) and total suspended solids’. There is no information on how a site-specific partition coefficient was developed at a site where there was no statistical relationship between dissolved and particulate metals. If a site-specific partition coefficient is to be used to determine copper numeric targets, then the Regional Board must demonstrate that there are sufficient data to accurately determine the partition coefficient.	Staff reviewed data provided by the city of Los Angeles and determined that the proposed partition coefficient is accurate. After a regression analysis showed that there was poor correlation between dissolved and total metals, LWA used partition coefficient modeling to calculate a translator that accounted for TSS, as allowed by the SIP. In this approach, the translator is the dissolved fraction (fd) calculated using a site a specific partition coefficient (Kp) and TSS, where $fd = 1/(TSS \times Kp + 1)$ . This is in accordance with EPA guidance entitled ‘The Metals Translator: Guidance for Calculating a Total Recoverable Permit Limit from a Dissolved Criterion. EPA 823-B-96-007.

No.	Author	Date	Comment	Response
				LWA proposed a Kd = 20,000 for Glendale, which provided the best fit for the data and a Kd = 10,000 for Tillman, which was a conservative estimate. They used median and 10th percentile TSS values to calculate the chronic and acute translators, respectively.
27.8	Baykeeper and Heal the Bay	5/12/05	The wet-weather numeric targets for copper, lead and zinc were based on site-specific conversion factors developed from LACDPW storm water data. For copper and zinc, the site-specific conversion factors are smaller than the CTR default conversion factors, therefore they are the opposite of conservative. Furthermore they are not based on robust statistical relationships. The R <sup>2</sup> values for the copper and zinc relationships are 0.69 and 0.61 respectively. The use of site-specific conversion factors in this case does not provide an MOS and in fact increases the uncertainty associated with the numeric targets.	The site-specific conversion factors are not non-conservative and they are supported by the literature which suggests that an even greater portion of metals is associated with particulates in wet-weather. The implementation plan allows for further study to evaluate and refine the conversion factors through special studies.
27.9	Baykeeper and Heal the Bay	5/12/05	This comment applies to Ballona Creek.	N/A
27.10	Baykeeper and Heal the Bay	5/12/05	Assigning separate allocations for dry and wet weather is required and is separate from a margin of safety. Decisions which are based on sound scientific data and analysis (e.g. not using site-specific conversion factors for metals other than copper in the LA River during dry weather, see above) are not considered a margin of safety even when they lead to lower effluent limits. This is because they are based on existing knowledge, rather than based on conservative choices intended to be protective of water quality where there is a lack of specific knowledge.	Site-specific conversion factors for dry-weather were not used because a statistically significant relationship could not be determined based on available data. However, the application of the CTR-default conversion factors is still a conservative assumption. See response to 27.4.
27.11	Baykeeper and Heal the Bay	5/12/05	The mass-based WLAs are 44-66% higher than they would be if they were based on real discharge numbers. This effectively awards a dilution	The POTWs are subject to both a concentration and mass based WLA. When

No.	Author	Date	Comment	Response
			credit to these dischargers when in fact no dilution occurs. Not only does this not make sense from a technical standpoint, it also serves to detract from the implicit margin of safety in this TMDL. Since the implicit MOS is never quantified, the use of design flows to calculate WLAs for the LA River POTWs may increase their allowed loads by an amount that far exceeds the margin of safety being relied upon in this TMDL. Wasteloads must be assigned based on actual discharged volumes rather than design flows because the existing S. 303(d) listed impairments are caused by existing discharges, not design flows.	actual discharge flow rates are less than than the maximum design flow, the concentration based WLA will be the controlling factor. The load based allocation will prevent the POTW from expanding beyond the design capacity unless the TMDL is amended to allow for the increased loading.
27.12	Baykeeper and Heal the Bay	5/12/05	These comments focus only on the impacts of loading allocations on the water-column impairment by metals, with the caveat that metals in the sediments of the LA River estuary will be addressed, in the Long Beach Harbor sediment toxicity TMDL that is due in 2008, and that such a TMDL for sediment toxicity in the estuary may require re-evaluating this TMDL for metals in the LA River. We concur with the recommendation of the Contaminated Sediments Task Force, that the Regional Board link the sediment and water-based TMDLs so that water-based metals loadings are reduced sufficiently to improve sediment quality in the estuary. We urge the Regional Board to fast track the sediment toxicity TMDL for Long Beach Harbor in order to rectify the situation as soon as possible.	The Regional Board and USEPA are currently working on developing the L.A./Long Beach Harbor Toxics TMDL. We expect that this TMDL will be a multi-year effort due to the complex modeling and data needs.
27.13	Baykeeper and Heal the Bay	5/12/05	The Regional Board and staff should be mindful of the broad societal costs imposed by metals and toxics in our waters.	Comment noted. The staff report shall be revised to include a discussion of the benefits of reducing metals in the Los Angeles River.
28.1	Cities of Monrovia and Beverly Hills	5/12/05	The comments from August 2004 are incorporated by reference.	See response to previous comments.

No.	Author	Date	Comment	Response
28.2	Cities of Monrovia and Beverly Hills	5/12/05	The comments from the County of Los Angeles and other MS4 permittee cities by reference.	See responses to County and other MS4 permittee comments.
28.3	Cities of Monrovia and Beverly Hills	5/12/05	The record does not demonstrate that an assimilative capacity study has been conducted as required by 40 CFR § 130.7(c)(1)(ii).	See responses to comments on the July 12, 2004 draft – comment No. 10.13.
28.4	Cities of Monrovia and Beverly Hills	5/12/05	The Regional Board has not analyzed the costs and economic impacts of the proposed TMDL in a manner contemplated by the CWA and Water Code § 13241.	See responses to comments on the July 12, 2004 draft – comment No. 6.14.
28.5	Cities of Monrovia and Beverly Hills	5/12/05	§13165, and §§ 13225(c) and 13267(b) require that the economic burden of requiring technical monitoring reports must bear a reasonable relationship to the needs for those reports.	See responses to comments on the July 12, 2004 draft – comment Nos. 1.16 and 16.9.
28.6	Cities of Monrovia and Beverly Hills	5/12/05	It must be confirmed that the complete factual basis for the TMDL is contained solely within the reports identified in Section 9 of the staff report.	The staff report, including the reference section and the three appendices represent all of the documents relied upon in the TMDL. Additional “documents considered” are included in the administrative record.
28.7	Cities of Monrovia and Beverly Hills	5/12/05	The exemption from CEQA by 14 CCR § 125251(g) does not apply because the TMDL does not conform to the requirements of a certified regulatory program. The Board failed to identify potential significant environmental effects, including impacts to water, public service, and utilities and service systems. The Board has not complied with 23 CCR § 3779(a) because the revised staff report and CEQA-related documents do not address prior comments and the notice of hearing for the revised documents allows only 21 days between the comment cutoff and the Board hearing.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, 6.17, and 8.1 through 8.32.  The Regional Board has complied with section 3779, subdivision (a) of title 23, California Code of Regulations. All comments received more than 15 days before the Board meeting have been addressed in a written response to comments. The responses to comments are

No.	Author	Date	Comment	Response
				available before the June 2, 2005, Board meeting. The regulation only requires that the written responses be available at the Board meeting.
28.8	Cities of Monrovia and Beverly Hills	5/12/05	The Regional Board has not complied with the Administrative Procedures Act which require a showing of ‘necessity’, ‘authority’, ‘clarity’, ‘consistency’, ‘reference’, and ‘non-duplication’. The Regional Board has not complied with Government Code § 11346.5 nor other procedural requirements of the APA.	See responses to comments on the July 12, 2004 draft – comment Nos. 16.28 and 16.29.
29.1	CSDLAC	5/12/05	The Regional Board should add to the TMDL specific allocations for Reach 2 and 3 of the Rio Hondo based on reach-specific hardness values (if hardness data is not available for Reach 2, then at the very least Reach 3 allocations can be added).	The BPA and staff report have been revised to exclude dry-weather WLAs from Rio Hondo Reaches 2 and 3 during dry weather to recognize that they are not impaired and all or nearly all the flow is diverted to the spreading grounds; little or no flow enters Rio Hondo Reach 1 from upstream during dry weather. Staff note that this substantial groundwater recharge is an excellent example of an IWRP approach that the Regional Board supports.
29.2	CSDLAC	5/12/05	The use of the acute one-hour standard to establish a limit for dry-weather steady-state conditions is not logical or appropriate. The justification in the staff report does not appear to be science-based; rather it appears that the lower of two numbers was simply chosen without any explanation to support this assertion. The appropriateness of the acute criterion versus the chronic criterion for a steady-state dry-weather target has not been discussed. All numeric targets, including zinc, should be based on the chronic criterion based on the 50th	The dry-weather WLAs were based on the chronic criterion and the median downstream hardness, with the exception of zinc. In the case of zinc, the chronic and acute CTR objectives are the same. When adjusted using site-specific hardness values, the resulting zinc target based on the acute criteria and 10 <sup>th</sup> percentile hardness values

No.	Author	Date	Comment	Response
			percentile hardness of the downstream receiving water.	is less than the target based on the chronic criteria and the 50 <sup>th</sup> percentile hardness values. The more protective target is chosen. Please note that Rio Hondo Reach 2 and 3 are not assigned numeric targets or waste load allocations.
29.3	CSDLAC	5/12/05	From a scientific review of the CTR, it is apparent that the standards in the CTR were not meant to apply to stormwater. It is widely thought that the majority of metals in the river in dry weather are in the dissolved form, and in wet weather the majority of the metals in runoff are in the particulate form. The CTR reflects the toxicity of a metal in a dissolved state; in the particulate form, the metals do not dissolve in the water, and thus the toxicity of the metals is inhibited. CTR limits are based on a dissolved amount of metal that would presumably be toxic, and then a conversion factor is applied to determine how much dissolved metal is present depending on how much total recoverable metal is found. Thus, since metals are mostly in the particulate form during storms, the CTR conversion factor would be much smaller if the CTR was actually attempting to reflect the toxicity of storm water. However, all the acute conversion factors are within 75% to 100% for the most part. Thus, use of the CTR, and basing targets for stormwater on the CTR, may be conservative by a factor of three to five. The Districts believe this is an overly conservative assumption to make. The TMDL should not use the CTR to determine wet-weather targets in the TMDL and should not purport it is scientifically "logical" to do so.	The CTR criteria must be met in dry and wet weather. The TMDL numeric targets are based on the dissolved CTR criteria. Conversion factors to convert the dissolved targets to total are applied in order to calculate waste load allocations for point sources as total recoverable metals.
29.4	CSDLAC	5/12/05	Requiring dischargers to achieve US. EPA benchmarks, while not considering background and offsite sources, is infeasible and is an economic burden. The Districts believe that only dissolved levels of	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.

No.	Author	Date	Comment	Response
			metals should be applied in the TMDL.	While the TMDL is developed to address toxicity in the water column, it recognizes the potential for transformation between the total and dissolved metals fraction. The Board also recognizes that total metals loadings may have to be controlled in the future to address metals listings in San Pedro Bay and the Los Angeles River Estuary.
29.5	CSDLAC	5/12/05	The Districts have a prohibition on urban runoff diversions (wet-weather or dry-weather) to the facilities which discharge to inland water courses and some sewers tributary to the JWPCP are not accepting additional flows (even during off- peak periods). It is therefore recommended that the Regional Board strike sewer diversions from the list of potential implementation strategies, and instead begin a cooperative effort with the responsible jurisdictions to identify and realize opportunities for genuine source control.	Diversion to a wastewater treatment plant is not required by the TMDL. Staff recognized it's limitations as a potential means of compliance and considered alternative potential compliance measures as part of the cost assessment.
29.6	CSDLAC	5/12/05	Aluminum should not only be excluded from this TMDL, it should be delisted since the listing was inappropriate in the first place.	See responses to comments on the July 12, 2004 draft – comment No. 2.3.
29.7	CSDLAC	5/12/05	The "wet weather condition" for the TMDL is indicated to be when the maximum daily flow exceeds 500 cfs at the Wardlow gage station, and is irrespective of rainfall. Other information may be more appropriate to determine the start of a storm, such as a flow increase of a specified amount, combined with reports of actual measured rain. In order to be consistent among the regional TMDLs, the definition of a storm provided by the Santa Monica Bay Beaches Bacterial TMDL (0.1 inch of rain or more and the three days following a rain event) could be used	The Santa Monica Bay Bacteria TMDL defined waste load allocations in terms of days of exceedance and a definition of a storm event based on rainfall is suitable. The Metals TMDL is more of a traditional TMDL, with waste load allocations expressed as a function of flow, and a definition of a storm based on rainfall

No.	Author	Date	Comment	Response
			as a starting point for the definition of a rain event. The proposed Basin Plan amendment should be modified to remove prescriptive definitions of wet- weather monitoring triggers. The Basin Plan Amendment should state that the triggers consider both flow and rainfall, and should be defined in the wet-weather monitoring plan.	would not be suitable because assimilative capacity is a direct function of river flow, and there is imperfect correlation between rainfall and flow, especially during rainfall of events of less than 0.1 inch. The intensity and duration of rainfall vary throughout the watershed. The loading capacity and allocations, and the distinction between wet and dry weather must therefore be a function of flow.
30.1	County of Los Angeles	5/12/05	EPA stated in CTR proceedings that end-of-pipe technologies would not be required to achieve compliance with the CTR standards in storm water, but rather existing non-structural BMPs would be required. A November 22, 2002 guidance memo states that ‘if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this. Unfortunately, the implementation methods suggested for the proposed TMDL, while it is impermissibly vague and fails to meet the requirements of section 13242 of the Water Code, are not non-structural, iterative BMPs, but structural BMPs.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, 16.7, and 16.11.
30.2	County of Los Angeles	5/12/05	The CTR or SIP was never intended to apply to storm water discharges nor was it intended to be applied without consideration of dilution or as never to be exceeded values. It is anticipated that Regional Board staff’s response to this comment is that because the CTR standard is intended for specified receiving waters in the LA River watershed, it must be employed as the numerical objective for the TMDL. However, during wet weather the receiving waters are composed principally of storm water flows. Were the Regional Board to adopt the CTR criteria as	See responses to comments on the July 12, 2004 draft – comment No. 6.4.

No.	Author	Date	Comment	Response
			numerical objectives for wet weather flows, it would be doing so in clear violation of the rationale for the CTR criteria, without evidence in the record, and in an arbitrary and capricious manner.	
30.3	County of Los Angeles	5/12/05	The REC-1, REC-2, and WARM and COLD beneficial uses designations in several reaches and tributaries should be reviewed prior to the adoption of the TMDL.	See response to comment No. 21.27.
30.4	County of Los Angeles	5/12/05	The proposed amendment violates the Requirements of Water Code § 13242 because it contains no description of the nature of actions which are necessary to achieve the objectives of the metals TMDL. Instead, the Staff Report contains a series of loosely described non-structural and structural BMPs. Staff conducted no analysis of the ability of these BMPs to achieve compliance with the objectives.	See responses to comments on the July 12, 2004 draft – comment No. 6.11.
30.5	County of Los Angeles	5/12/05	While the revised TMDL recognizes the impact of nonpoint sources, it fails to suggest how load allocations will be addressed beyond a statement that they will be regulated through the authority contained in sections 13263 and 13269 of the Water Code. The TMDL should account for the open space controlled by the National Park Service.	The authority contained in sections 13263 and 13269 of the Water Code is sufficient to implement the load allocations.
30.6	County of Los Angeles	5/12/05	The Resolution proposing to adopt the amendment does not indicate that the Regional Board considered, or will consider the factors set forth in section 13241 of the Water code. The Arcadia court found that, because the Trash TMDL represents an amendment of the Basin Plan, Section 13241 applies. State Board Office of Chief Counsel has concluded that the Regional Board has an affirmative obligation to consider economics when adopting a TMDL (see memorandum prepared by Sheila K. Vassey of the Office of Chief Counsel attached as Exhibit 4 to the Rutan & Tucker letter.)	See responses to comments on the July 12, 2004 draft – comment Nos. 6.14, 6.15, and 16.25.
30.7	County of Los Angeles	5/12/05	The analysis of the two structural BMPs in the staff report is based on	See response to comment No. 20.7.

No.	Author	Date	Comment	Response
	Angeles		<p>the treatment of low flows; there is no assessment of how to treat high-flows. Moreover, the nature of the watershed, including dominant soil types, may hinder the effectiveness of infiltration technology, which often requires pretreatment. The Flow Science report submitted with the August 26, 2004 County comment letter discusses the relative inability of lower-cost BMPs to remove dissolved metals.</p> <p>The costs estimates for the infiltration trenches and sand filters are based on incomplete assumptions, such as not expressing costs in 2005 dollars.</p>	<p>See also responses to comments on the July 12, 2004 draft – comment No. 6.35.</p> <p>See response to comment No. 3.5. Assumptions are clearly stated in the staff report.</p>
30.8	County of Los Angeles	5/12/05	<p>The cost estimates for the suggested structural BMPs are inadequate as they exclude costs of land acquisition, conveyance systems, pretreatment devices, and surge control. Also, the costs estimates used a 0.5 inch storm size criteria; the more realistic Caltrans 1.71 inch standard should be employed. There are no cost estimates for other structural BMPs, including wet- or dry-weather diversions, nor the cost of the recommended IRP program. Given the extent of these additional costs, such technologies do not meet the “maximum extent practicable” test set forth in the Clean Water Act.</p> <p>The Board should consider the reports (attached as Exhibits 34, 35, and 36 to the comments of Rutan and Tucker) which suggest far greater costs for BMPs.</p>	<p>See response to comment No. 3.5 See also responses to comments on the July 12, 2004 draft – comment No. 2.18.</p> <p>The Cost analysis assumes a mixture of methods to be used, which collectively will bring the watershed into attainment with the CTR criteria. Although, certain BMP devices might be sized for 0.5 or a 1.0 inch storm, it is assumed that this device would be just one component of a treatment train. In the Caltrans BMP retrofit pilot program discussed in the staff report, infiltration trenches were designed to treat 1 inch of runoff and sand filter were designed to treat 0.56 to 1 inches of runoff.</p> <p>See response to comments submitted by</p>

No.	Author	Date	Comment	Response
				Rutan and Tucker (specifically comment No. 34.5)
30.9	County of Los Angeles	5/12/05	To the extent that the Regional Board is attempting to apply TMDL WLAs to unlisted water bodies, it does so in violation of the Clean Water Act. If it is the position that the requirements of state law require such application, the Water Code requires that the factors set forth in Water Code section 13241 be considered. <i>City of Burbank v. State Water Resources Control Board</i> , 2005 DJDAR3870.	See response to comment No. 3.11 and 21.89.
30.10	County of Los Angeles	5/12/05	The wet-weather allocations for nonpoint sources based on the wet-weather model are underestimated. Based on the deposition rates in the Sabin et al study, 20% of aerial deposition ends up in storm water. The fact that Monrovia Canyon Creek is listed as impaired for lead and is dominated by natural and open land use suggests that natural areas may make significant contributions to metals concentrations in storm water.  The Board should also acknowledge that most sources of metals in urban runoff and storm water are from sources beyond the control of a municipality.	See responses to comments on the July 12, 2004 draft – comment Nos. 1.40, 10.21 and 13.1.
30.11	County of Los Angeles	5/12/05	The aerial deposition of metals, due to air pollution, is a factor completely beyond the control of municipalities. Noted again is the recent case of <i>Communities for a Better Environment v SWRCB</i> , Cal. App. 4 <sup>th</sup> 1089 (2003).	See responses to comments on the July 12, 2004 draft – comment Nos. 1.40, 10.21 and 13.1.
30.12	County of Los Angeles	5/12/05	The TMDL has distinguished dry and wet weather based on stream flow, as opposed to rainfall. We submit that this distinction is not useful for several reasons. Structural BMPs and many nonstructural BMPs are designed based on rainfall. The County's rain gauge network is far more extensive than the stream flow network. And, the entire storm drain system has been designed based on rainfall and land uses.	See response to comment No. 29.7.

No.	Author	Date	Comment	Response
30.13	County of Los Angeles	5/12/05	The proposed TMDL has no upper flow limit or upper rainfall event limit. Designing and building BMPs to handle every possible storm is obviously impossible and, if this requirement is attempted to be implemented through the MS4 permits, goes beyond the maximum extent practicable standard.	See response to comment No. 20.7. Although this comment is addressed by defining a maximum design storm, please also see responses to comments on the July 12, 2004 draft – comment No. 2.18 for a discussion of MEP.
30.14	County of Los Angeles	5/12/05	The CEQA analysis improperly segments the project by stating that a separate CEQA review process will likely be required during the implementation of the TMDL. Furthermore, where impacts are identified, staff has consistently assumed that there are, in fact, feasible mitigation measures for every potential adverse impact and has refused to acknowledge that some of the impacts may not be susceptible of any feasible mitigation.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
30.15	County of Los Angeles	5/12/05	There is also no alternative set forth for the proposed implementation schedule in violation of 23 Cal. Code Reg. § 3777(a)(2).	See responses to comments on the July 12, 2004 draft – comment No. 6.21.
30.16	County of Los Angeles	5/12/05	The responses to comments have not been provided to stakeholders as of the date of these comments. While a certified regulatory program may use its own environmental documentation in lieu of an EIR or mitigated negative declaration, but it must, among other things, make that documentation available for review and comment by the public and other agencies. Pub. Resources Code § 21080.5(d)(3(B). Moreover, the State Board’s CEQA regulations, which are applicable to the Regional Board, state that ‘upon completion of the written report’ prepared in conjunction with an Environmental Checklist, the Notice of Filing shall be provided. 23 Cal. Code Reg. § 3776(c).	See response to comment No. 2.1.
30.17	County of Los Angeles	5/12/05	The statement of overriding considerations does not meet the requirements of 14 Cal. Code Reg. § 15093, which requires that such a	See responses to comments on the July 12, 2004 draft – comment No. 2.23. The

No.	Author	Date	Comment	Response
			statement “be supported by substantial evidence in the record.” Moreover, the lead agency must balance the benefits of a project against its unavoidable environmental risks. Such a balancing has not occurred in the CEQA documentation for the proposed TMDL, because there has been no consideration or analysis of the environmental risks.	substantial evidence is contained in the TMDL staff report and the response to comments, demonstrating the federal requirement to implement the established water quality standards for metals in the impaired water bodies.
30.18	County of Los Angeles	5/12/05	The Checklist assumes that there will be no unstable earth conditions, increase in erosion, changes in deposition or erosion of beach sands or modifications of channels or exposure of persons to geologic hazards. There is no discussion of the impacts of the construction of structural BMPs, which may cause unstable earth conditions due to the injection of water into the subsurface and adverse geological conditions. Moreover, changes in the pattern of water flow could result in changes to the beds of unimproved streams as well as changes in the pattern of siltation and beaches. Also, the suggested “mitigation,” of siting the BMPs in an area without adverse earth impacts, assumes without any evidence that such areas will exist.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.2.  See also response to comment No. 1.6.
30.19	County of Los Angeles	5/12/05	The Checklist assumes no creation of objectionable odors; however, the storage of urban runoff or stormwater in catch or detention basins, one suggestion for wet-weather BMPs, could result in such odors as well as other nuisances. Moreover, the short-term impacts ascribed to air emissions do not take into account the emissions from sweeper equipment, as well as impacts from increased traffic congestion due to the construction of BMPs.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, 8.5 and 8.14.  The assertion that there could be a significant increase in air pollution due to street sweepers is an unsubstantiated opinion and a speculative possibility. Sweepers are already in use. The TMDL only suggests increasing frequency and efficiency and replacing existing sweepers

No.	Author	Date	Comment	Response
				with improved models. Odors from the retention of storm water are not a reasonable foreseeable impact.
30.20	County of Los Angeles	5/12/05	The Checklist assumes environmental impacts in a number of subcategories, but concludes generally that the impacts are positive. There are, however, negative impacts that were not discussed, including the possible subsurface disposal of pollutants infiltrating into structural BMPs and the discharge of eroded sediments into waterways. As the Court in <i>County of Kern</i> held, the negative impacts of projects with otherwise positive impacts must be evaluated in the CEQA process.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, 8.7 and 8.8. The assertion that implementation of BMPS would cause the discharge of eroded sediments into waterways is an unsubstantiated opinion and a speculative possibility. The proposed structural BMPs are designed to <i>remove</i> sediments.
30.21	County of Los Angeles	5/12/05	The Checklist admits that the BMPs considered for TMDL implementation could create a “significant adverse effect” on aquatic life habitat. No analysis of these impacts is accomplished, however, and the Checklist concludes, without analysis, that the positive impacts on water quality would override “marginal losses in habitat.” It is difficult to understand how a “significant adverse effect” could be translated into “marginal losses in habitat,” but neither the Checklist nor the Staff Report provide any assistance.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.9.
30.22	County of Los Angeles	5/12/05	The discussion of Noise impacts in the Checklist concludes that the impacts would be “limited and short-term.” This conclusion is rebutted by the fact that operation of similar BMPs for the trash TMDL had to be curtailed due to the extreme noise associated with some BMPs. Moreover, to the extent that pump trucks will have to be employed to routinely clean out structural BMPs, which is likely, the noise impacts will not occur only in construction but in the operation of the BMPs.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, 8.10 and 8.14.
30.23	County of Los Angeles	5/12/05	The Checklist acknowledges the potential for adverse impacts on existing land uses, but asserts that “projects may be designed to address	See response to comment No. 4.4.

No.	Author	Date	Comment	Response
			the need for more parks and wildlife habitat.” This hope for mitigation ignores the fact that there may be no available land area or funding for the creation of ‘more parks and wildlife habitat.’ Moreover, the Checklist fails to detail how the construction of structural BMPs might conflict with existing land uses.	
30.24	County of Los Angeles	5/12/05	The Checklist acknowledges no impacts on Population and Housing but, as was noted above, the construction of structural BMPs may require the condemnation of residences, commercial structures and other facilities.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 7.3.
30.25	County of Los Angeles	5/12/05	The Checklist acknowledges only temporary alterations to traffic. It is plain that the construction of thousands of structural BMPs, along with conveyance structures, will cause significant disruption of traffic. These short-term effects must, under the governing case law, be evaluated in a CEQA document.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.14.
30.26	County of Los Angeles	5/12/05	The Checklist concludes, without analysis, that the only impacts on Public Service will be with respect to the maintenance of the BMPs themselves and monitoring of the TMDL. The Checklist ignores the potential for impacts on general municipal services, such as police and fire, if the costs of implementation must be borne from general municipal budgets. Moreover, the construction of BMPs could adversely affect parkland areas.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, 8.16-8.18, and 8.31.
30.27	County of Los Angeles	5/12/05	Under Utilities and Service Systems impacts, the Checklist acknowledges impacts on stormwater drainage, there is no discussion of the adverse impacts on such systems, nor is there any discussion of mitigation measures that may be required. Nor is there any discussion of the impacts on solid waste disposal from having to remove debris and waste from collection facilities associated with structural BMPs.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, and 8.23-8.27.
30.28	County of Los Angeles	5/12/05	The Checklist concludes, among other things, that the proposed Basin Plan Amendment will not degrade the quality of the environment nor	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 6.17.

No.	Author	Date	Comment	Response
			have cumulative adverse impacts. These conclusions contrast starkly with the CEQA Initial Study prepared in connection with the City of Los Angeles' IRP, which concluded that the construction of BMPs associated with that project. The Initial Study has been attached as Exhibit 19 to the comments of Rutan & Tucker. We hereby incorporate this exhibit as though set forth in full herein.	See response to Rutan & Tucker comments.
30.29	County of Los Angeles	5/12/05	The checklist and staff report do not meet the statutory requirements for a substitute environmental document. Alternatives are discussed in the Checklist and in the Staff Report (but not in the responses to comments which, as noted above, have yet to be provided to the public). Neither the Checklist nor the Staff Report provide any meaningful mitigation or alternatives, but merely vague assurances that have no empirical basis. The Staff Report also fails to provide any specific mitigation measures that could be adopted by dischargers. While the Secretary of Resources has certified the basin planning process as exempt from certain requirements of CEQA, a certified regulatory program still must comply with CEQA's remaining policies and requirements. <i>Environmental Protection Information Center v. Johnson</i> (1985) 170 Cal. App. 3d 604.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 6.17.
30.30	County of Los Angeles	5/12/05	No cost/benefit analysis required by Water Code §§ 13225(c) and 13267 has been conducted of the compliance/ambient monitoring programs required in the proposed Basin Plan amendment, nor of the proposed special studies required under the amendment. The San Diego Superior Court in the <i>Arcadia</i> case invalidated that TMDL in part due to the Regional Board's failure to conduct such a cost/benefit analysis prior to adoption of that TMDL. To the extent that the proposed Basin Plan Amendment calls for ambient or compliance monitoring of reaches that are not listed as impaired, such monitoring is in violation of the above-cited provisions of the Water Code.	See responses to comments on the July 12, 2004 draft – comment No. 1.16.

No.	Author	Date	Comment	Response
30.31	County of Los Angeles	5/12/05	The 12 month timeline should be extended to 4 years to allow the results of any special studies to be incorporated into the implementation plan.	The deadline for submittal of the implementation plan has been extended to 24 months. However, cities need to move forward with implementation as soon as possible based on the information provided in the TMDL. Cities can revise implementation plans when new information becomes available.
30.32	County of Los Angeles	5/12/05	Staff did not distribute a “redline” document or other indication of what it considered to be “revisions” to the documents; neither did staff officially respond to comments made in August 2004. Moreover, the tentative resolution and proposed Basin Plan amendment, the CEQA checklist and the staff report and attachments, are all new documents, and do not reflect that they are amended or revised in any way. Public Works has attempted in these comments to focus on what it perceives to be revisions to the proposed Basin Plan amendment, Resolution and supporting documents. We expressly incorporate by reference our comments and all exhibits thereto dated August 26, 2004 and submitted in response to the original version of the proposed TMDL.	See response to comment No. 1.2.
31.1	WATER	5/12/05	This comment applies to the Ballona Toxic pollutants TMDL.	N/A
31.2	WATER	5/12/05	The inevitable outcome of CTR-based WLAs will be that the CTR criteria will be applied inappropriately as not-to-be-exceeded, end-of-pipe limits, once the Metals TMDLs are adopted and NPDES permit limits must be consistent with the WLAs – an approach not appropriate for storm water.	See responses to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, and 16.7.
31.3	WATER	5/12/05	The Board should undertake more stakeholder involvement and conduct further workshops to more fully consider comments.	The Board has held three workshops on the proposed TMDLs. Numerous municipal stakeholders participated in the process

No.	Author	Date	Comment	Response
				leading to the development of this TMDL. Local and state agencies have been consulted at numerous steps. These consultations have resulted in lengthy compliance schedules for municipal dischargers, and significant adjustments to the TMDL.
31.4	WATER	5/12/05	The TMDL is not technically sound, it does not incorporate cost-effective approaches, and is not consistent with state and federal policies.	The TMDL is technically sound, it incorporates cost-effective approaches, and it is consistent with state and federal policies. See responses to comments on the July 12, 2004 draft – comment Nos. 6.14, 6.15, 6.16, 7.4, 17.7, 17.9. The TMDL implements existing water quality objectives under Water Code section 13242. Moreover, as detailed at length in the TMDL document, Basin Plan amendment, and response to comments, the TMDL complies with section 303(d)(1)(C) of the Clean Water Act and the express national policy that the discharges of toxic pollutants in toxic amounts be prohibited. (33 U.S.C. § 1251(a)(3).)
32.1	Southern California Gas Company	5/12/05	Little cost benefit analysis is provided for the reductions required by the TMDL.	See responses to comments on the July 12, 2004 draft – comment Nos. 6.14 and 6.15
32.3	Southern California Gas	5/12/05	Inadequate discussion is given to the contribution of construction projects to metals loadings and there is no basis to justify an assigned	See responses to comments on the July 12, 2004 draft – comment No. 6.10.

No.	Author	Date	Comment	Response
	Company		WLA.	
32.4	Southern California Gas Company	5/12/05	To the extent that WLAs are applied to industrial and construction storm water permittees, BMPs should be used for implementation rather than translating them into numeric effluent limits.	See response to comment Nos. 7.3, 24.4, and 25.8.
32.5	Southern California Gas Company	5/12/05	It is inappropriate to assign a zero WLA in dry weather to construction and industrial storm water permittees and the report does not address the economic impacts of these WLAs.	See response to comment Nos. 7.2 and 25.7.
32.6	Southern California Gas Company	5/12/05	BMPs should be used in place of numeric effluent limits for storm water discharges. To the extent that numeric limits are assigned, concentration-based limits should be applied.	See response to comment Nos. 7.3, 24.4, and 25.8.
32.7	Southern California Gas Company	5/12/05	Monitoring should not be required for linear construction projects covered under the general permit because the construction areas are narrow and they contain background pollutants that are ordinarily found in streets and are not a result of the construction projects.	See response to comment Nos. 7.3.
32.8	Southern California Gas Company	5/12/05	To the extent that monitoring is required, it needs to be conducted in a manner to ensure the results and conclusions drawn from the data are scientifically valid.	Comment noted.
33.1	Universal Studios, LLC	5/12/05	The Regional Board is required to engage in a balancing process when determining what water quality objectives are necessary and appropriate taking into consideration a variety of factors including economic considerations. (Water Code section 13241 and 13240)	See responses to comments on the July 12, 2004 draft – comment No. 6.14.
33.2	Universal Studios, LLC	5/12/05	The technical investigation behind this TMDL does not support a concentration-based discharge limit as this time.	Because the Los Angeles River is impaired due to exceedances of CTR objectives, there is no excess assimilative capacity to provide dilution during critical conditions. Therefore, waste load allocations based on applicable CTR criteria are the least

No.	Author	Date	Comment	Response
				stringent waste load allocations that could be applied.
33.3	Universal Studios, LLC	5/12/05	The TMDL for minor individual NPDES permit holders should be implemented as BMPs, with a monitoring and reporting program for BMP evaluation, similar to the MS4 plan.	See response to comment No. 23.2.
33.4	Universal Studios, LLC	5/12/05	Establishing enforceable reach-specific concentration-based discharge limits during wet weather based on variables measured downstream at Wardlow is inaccurate and problematic.	Hardness values and flow conditions vary between dry and wet weather. Because of the flow conditions in dry-weather, the TMDL allocates reach-specific WLAs based on reach-specific hardness. However, during wet-weather, it is more accurate and representative to calculate allocations for all reaches based on Reach 1 hardness values.
33.5	Universal Studios, LLC	5/12/05	Because there is no way to know if flow at Wardlow reaches 500 cfs and wet-weather conditions apply, the Regional Board is effectively requiring users in the upstream reaches to treat wet-weather concentrations full time or risk non-compliance.	Dischargers should design storm water BMPs to treat or contain runoff resulting from rainfall. In most instances wet-weather allocations are more stringent, therefore if localized rain events do not coincide with sufficient in-river flows to trigger the wet weather WLAs, the permittee will still be in compliance.
33.6	Universal Studios, LLC	5/12/05	The regional-scale wet-weather modeling completely fails to simulate wet-weather conditions and does not support reach-specific concentration-based limits.	See responses to comments on the July 12, 2004 draft – comment Nos. 6.37, 6.39, and 6.40.
33.7	Universal Studios, LLC	5/12/05	Air deposition can account for all the copper in the river. A comprehensive source analysis is needed.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
33.8	Universal	5/12/05	The load allocation methodology unfairly favors the POTWs because	The current methodology does not allocate

No.	Author	Date	Comment	Response
	Studios, LLC		the combined POTW design flow is only 169 cfs but the current methodology allocates half the allowable load to the POTWs.	half the allowable load to the storm water permittees. After subtracting out the POTW allowable load, the portion of the wet-weather loading capacity allocated to the storm water permittees varies with flow. The concentration-based WLAs allocate to the “other NPDES permits” including Universal, are not factored into this approach. They are treated separately.
33.9	Universal Studios, LLC	5/12/05	The analysis fails to include a supportable margin of safety analysis.	The implicit margin of safety, based on the use of several conservative assumptions, is supported by the staff report.
33.10	Universal Studios, LLC	5/12/05	The TMDL has failed to pass scientific and technical peer review.	See response to comment Nos. 3.13 and 25.11.
33.11	Universal Studios, LLC	5/12/05	The Regional Board has failed to analyze the connection between dry air deposition and urban storm water runoff.	See responses to comments on the July 12, 2004 draft – comment No. 1.40.
33.12	Universal Studios, LLC	5/12/05	The proposed load reduction technology has not been adequately tested and has demonstrated extremely poor copper removal.	See responses to comments on the July 12, 2004 draft – comment No. 6.35.
33.13, 33.14	Universal Studios, LLC	5/12/05	The TMDL must allow for revisions as localized data, which is currently unavailable, is collected.	Comment noted. The TMDL may be reconsidered based on revised data - a reconsideration five years from the effective date is built into the implementation schedule.
33.15	Universal Studios, LLC	5/12/05	The TMDL recognizes the importance of hardness but fails to account for reach-specific variability during wet-weather conditions.	See response to comment No. 33.4.
33.16	Universal Studios, LLC	5/12/05	The methodology for selecting a wet-weather copper conversion factor is arbitrary and unsupported by the referenced scientific literature. On-	The methodology for choosing a wet-weather conversion factor is well supported

No.	Author	Date	Comment	Response
			site measurements at Universal suggest a local conversion factor of approximately 0.25. Small variations in hardness and the copper conversion factor produce significant changes in the target concentration and there can be no confidence in the 17 ug/l value selected.	by the staff report and the literature. Any overestimation is applied to the margin of safety, which is required by CWA section 303(d)(1)(c). The implementation plan allows for further study to evaluate and refine the conversion factors through special studies.
33.17	Universal Studios, LLC	5/12/05	The use of watershed-averaged air deposition estimates fails to account for site-specific circumstances known as phenomenological processes. Because there are far more buildings depositional surface area at Universal, there will be more metals loadings that the Regional average.	Permittees are responsible for storm water that they discharge to the river. For example, although permittees may have little control over sources of indirect air deposition of metals, once metals are deposited on land under the jurisdiction of a permittee, they are within a permittee's control and responsibility.
33.18, 33.23	Universal Studios, LLC	5/12/05	If concentration-based limits are imposed, it is imperative that flexibility be retained in the implementation phase so that concentrations may be adjusted based on additional data.	Comment noted. See response to comment No. 23.2.
33.19, 33.23	Universal Studios, LLC	5/12/05	Placing the burden of widespread atmospheric metals contamination of a few discharges to the river is inconsistent with the legislative intent of Water Code section 13263.3.	See comment No. 3.11
33.20	Universal Studios, LLC	5/12/05	The Regional Board cannot provide "reasonable assurances" that the TMDL will obtain water quality standards in the river in accordance with EPA guidance.	See response to comments on the July 12, 2004 draft – comment No. 16.5
33.21	Universal Studios, LLC	5/12/05	The Regional Board has failed to link underlying evidence to the proposed TMDL. See <u>Topanga Assoc. for a Scenic Cmty. v County of Los Angeles</u> Cal. 3d 506, 515 (1974) and <u>S.E.C. v. Chenery Corp.</u> , 318 U.S. 80, 94 (1943).	The data analysis confirms impairment of specified reaches within the L.A. River and its tributaries. The linkage between the waterbodies assimilative capacity is a

No.	Author	Date	Comment	Response
				simple calculation based on the CTR criteria and flow.
33.22	Universal Studios, LLC	5/12/05	The Regional Board has failed to adequately account for the economic impacts of the proposed TMDL as required by sections 13263 and 13241 of the Water Code, as mandated by the Supreme Court in <u>City of Burbank v. State Water Resources Control Board</u> .	See response to comment No. 3.11.
34.1	CPR	5/12/05	The revised metals TMDLs remain contrary to law. The prior comments dated August 26, 2004 are incorporated herein in their entirety.	See response to previous comments.
34.2	CPR	5/12/05	The Regional Board has failed to comply with its statutory obligations under Water Code Sections 13000, 13240, and 13241.	See responses to comments on the July 12, 2004 draft – comment No. 6.14.
34.3	CPR	5/12/05	The recent Court decision of <i>City of Burbank v. SWRCB</i> confirms the importance of considering Water Code Section 13241 factors and economics prior to issuing an NPDES permit and in developing water quality standards.	See response to comment No. 3.11.
34.4	CPR	5/12/05	Water Code Section 13241 factors and Section 13000 policies must be genuinely considered in developing and implementing the metals TMDLs. Any formulation or amendment of a water quality control plan, where water quality standards or objectives are being modified, as in the case of the metals TMDLs, which translates narrative water quality objectives into numeric standards, requires the consideration of Sections 13000 and 13241. See <i>United States of America v. State Water Resources Control Board</i> . Further evidence is contained in the Vassey and Atwater memorandums.	See responses to comments on the July 12, 2004 draft – comment No. 6.14, 6.15, and 16.25.
34.5	CPR	5/12/05	Additional reports evidence the significant costs and economic impacts from these metals TMDLs. See <i>Storm Water Cost Survey</i> , <i>Alternative Approaches to Storm Water Quality Control</i> , <i>Review of NPDES Storm Water Cost Survey</i> , and <i>Analysis of the TMDL for Metals in the Los Angeles River and Tributaries with Emphasis on Implementation</i> , which	See responses to comments on the July 12, 2004 draft – comment Nos. 5.3, 6.14, 7.4, and 16.6.

No.	Author	Date	Comment	Response
			estimates costs approaching 15 billion. The Board must consider these and other reports under Section 13241.	
34.6	CPR	5/12/05	EPA expressly refrained from considering the economic impacts of CTR as applied to storm water because of its position that existing BMPs in the Cities 1996 NPDES permit were sufficient to meet CTR. EPA was not intending to impose strict numeric limits on municipalities nor costly end-of-pipe controls.	See response to comments on the July 12, 2004 draft – comment No. 16.11.
34.7	CPR	5/12/05	The metals TMDLs continue to impose monetary requirements through the requirement of compliance monitoring and special studies on the cities without compliance with the cost benefit requirements under Water Code Sections 13165, 13225, 13267, and the CWA.	See response to comments on the July 12, 2004 draft – comment No. 16.9.
34.8	CPR	5/12/05	No assimilative capacity study has been conducted. Instead, the TMDLs rely upon the need for future studies to evaluate sit-specific toxic effects of metals.	See response to comments on the July 12, 2004 draft – comment No. 16.3, 16.14, and 16.26.
34.9	CPR	5/12/05	The TMDLs do not include an implementation plan and appropriate load allocations for nonpoint sources. There has not been a thorough analysis of pollutant loading from all sources. A specific LA should be assigned to the USFS, as was done in the San Gabriel River Trash TMDL. The WLAs assigned to the cities do not consider any of the LAs that have been assigned or should be assigned to nonpoint sources.	See response to comments on the July 12, 2004 draft – comment No. 16.30. See also response to comment Nos. 1.21 and 21.21.
34.10	CPR	5/12/05	To apply TMDLs or any part thereof, such as waste load allocations, to an unlisted water body, and for waters not identified in the Consent Decree, is contrary to State and federal law. The Board must consider factors in Water Code section 13241 and the policies in section 13000 when applying WLAs to unlisted water bodies because this is not authorized or required by the CWA. There is no authority in the Water Code to apply WLAs to unlisted water bodies. There is a lack of	See response to comment No. 1.16 and response to comments on the July 12, 2004 draft – comment No. 2.7.

No.	Author	Date	Comment	Response
			sufficient source analysis to do so.	
34.11	CPR	5/12/05	The metals TMDL is contrary to law because it imposes waste load allocations for impairments based on potential uses to be made of subject water bodies contrary to 33 U.S.C. § 1313(d)(1)(A) & (C) and 40 CFR § 130.2(d) and CWA section 1313(c)(2)(A). The water bodies in issue have intermittent or low-flow conditions, there have been hydrologic modifications, and attainment of the use would result in substantial and widespread economic and social impacts. The State should remove the non-existing use. (40 C.F.R. § 131.11(g).)	See response to comments on the July 12, 2004 draft – comment Nos. 2.20, 6.16, and 16.25.
34.12	CPR	5/12/05	The TMDL is improperly being developed to address the impairment of “potential” beneficial uses, an action which is not required under the Clean Water Act, requiring a full consideration of the factors under Water Code section 13241 and the policies under section 13000.	See response to comments on the July 12, 2004 draft – comment Nos. 2.20, 6.16, and 16.25.
34.13	CPR	5/12/05	The TMDL remains overly technical, ambiguous, and impossible to understand, contrary to the APA and resulting in the cities and the public being denied due process of law. Commentor cited an opinion letter by Dr. Robert Patterson and the peer review comments of Professor Schroeder to argue that the TMDL lacks clarity.	See response to comments on the July 12, 2004 draft – comment Nos. 16.28 and 16.29. See also separate response to peer review comments.
34.14	CPR	5/12/05	The proposed TMDLs lack clarity and are contrary to the APA because they do not provide an individual means of compliance by a municipality.	See response to comments on the July 12, 2004 draft – comment Nos. 16.28 and 16.29. See also separate response to peer review comments.
34.15	CPR	5/12/05	The proposed TMDLs violate the necessity, authority, and reference requirements of the APA as a result of the attempt to impose regulatory limits through the application of waste load allocations on unlisted water bodies. See Gov. Code section 11349.1.	See response to comments on the July 12, 2004 draft – comment Nos. 16.28 and 16.29. See also separate response to peer review comments.
34.16	CPR	5/12/05	The due process rights of the cities and the public at large have been violated by the Board’s failure to provide a discussion and description of	See response to comment No. 2.1.

No.	Author	Date	Comment	Response
			the modifications that have been made to this complicated set of documents and by the Board's failure to provide an opportunity to review the responses to the comments submitted on the initial draft of the TMDLs.	
34.17	CPR	5/12/05	The requirements of CEQA have not been met because the substitute document inappropriately determines that the project could not have a significant environmental impact. The substitute document fails to list the mitigation measures or feasible alternatives that would reduce the acknowledged impacts to a level of insignificance. The finding of overriding considerations concedes the fact that significant impacts are not mitigated or avoided.	See response to comments on the July 12, 2004 draft – comment No. 2.23.
34.18	CPR	5/12/05	The substitute document fails to evaluate reasonable alternatives to the TMDL, which is the proposed activity, such as an atmospheric deposition approach, load allocations to nonpoint source entities, or a non-numeric iterative approach.	See response to comments on the July 12, 2004 draft – comment Nos. 1.40 and 6.21.
34.19	CPR	5/12/05	The Board has segmented the project in violation of CEQA by not considering the series of TMDLs for the Los Angeles River.	See response to comments on the July 12, 2004 draft – comment No. 2.23. Even though the Regional Board is not required to consider potential impacts of complying with multiple TMDLs, the implementation section of the staff report considers a multi-pollutant approach to achieving compliance, thus the environmental impacts analyzed applies to multiple TMDLs.
34.20	CPR	5/12/05	The substitute document fails to identify and evaluate individual impacts of the project and improperly defers analysis. The existence of alternative methods of compliance with a new rule or regulation does not render the environmental impacts to uncertain or speculative to	See response to comments on the July 12, 2004 draft – comment No. 2.23.

No.	Author	Date	Comment	Response
			evaluate. See <i>County Sanitation District No. 2 v. County of Kern</i> .	
34.21	CPR	5/12/05	A bare checklist does not comply with CEQA. The factual basis for any disputed environmental findings must be explained.	See response to comments on the July 12, 2004 draft – comment No. 2.23 and 6.21.
34.22	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Earth” by ignoring faults, liquefaction zones, slope stability, soil erosion, and soil settlement.	See response to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.1-8.4.
34.23	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Air Quality”.	See response to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.5-8.6. Also see response to .30.19.
34.24	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Water” by ignoring hazards from flooding, ground water quality, recharge, and erosion.	See response to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.7-8.8.
34.25	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Plant Life” and “Animal Life” by ignoring habitat losses, scouring, and changes in river flow.	See response to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.3 and 8.9.
34.26	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Present and Planned Land Use” by ignoring conflicts with zoning, general plans, and local coastal programs.	See response to comment No. 4.4.

No.	Author	Date	Comment	Response
34.27	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Natural Resources” by ignoring mineral resources.	See response to comments on the July 12, 2004 draft – comment No. 2.23.
34.28	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Risk of Upset” and/or “Human Health” by ignoring contaminated soils and hazardous emissions.	See response to comments on the July 12, 2004 draft – comment Nos. 2.23, and 8.13.
34.29	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Population” or “Housing” by ignoring impacts to housing.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 7.3.
34.30	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Transportation” or “Circulation” by ignoring local traffic conditions and short-term impacts.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.14.
34.31	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of “Public Service” by ignoring restricted access to fire stations, police stations, and schools due to construction and by diverting government services from other areas and by using land for BMPs that would otherwise be park land and recreational facilities.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 8.16-8.18.
34.32	CPR	5/12/05	The substitute document has failed to apply the “fair argument” standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, and 8.23-8.27.

No.	Author	Date	Comment	Response
			category of ‘Utility and Service Systems’ by ignoring alterations to drainage and the export of construction soil.	
34.33	CPR	5/12/05	The substitute document has failed to apply the ‘fair argument’ standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of ‘Aesthetics’.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, and 8.30.
34.34	CPR	5/12/05	The substitute document has failed to apply the ‘fair argument’ standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of ‘Recreation’ by ignoring access restrictions to park land or recreational and open space areas posed by construction of BMPs.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, and 8.31.
34.35	CPR	5/12/05	The substitute document has failed to apply the ‘fair argument’ standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites under the category of ‘Archeological/Historical’.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
34.36	CPR	5/12/05	The substitute document has failed to apply the ‘fair argument’ standard to the potential environmental impacts, to analyze the potential compliance methods, or to take into account specific sites in relation to vectors and environmental justice issues because it is requiring the poorest in the watershed to solve the problems that are not of their own making.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23, and 8.29.
34.37	CPR	5/12/05	The conclusion that there are no ‘Mandatory Findings of Significance’ is not supported by any data or evidence in the substitute document. The substitute document should be compared to the City of Los Angeles IRP as the TMDL proposed implementation of the IRP in 30% of the watershed.	See responses to comments on the July 12, 2004 draft – comment Nos. 2.23 and 6.17.
34.38	CPR	5/12/05	The substitute document fails to identify the cumulative impacts and growth-inducing impacts of the project, such as the generation of criteria	See responses to comments on the July 12, 2004 draft – comment No. 2.23.

No.	Author	Date	Comment	Response
			pollutants.	
34.39	CPR	5/12/05	The substitute documents contain no mitigation measures and has improperly deferred mitigation analysis to an undetermined future time.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
34.40	CPR	5/12/05	The Board has not complied with CEQA’s consultation requirements under section 3778 of the certified program. For example there is no indication that the Board has consulted with the vector control district or the air quality management district.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
34.41	CPR	5/12/05	The statement of overriding considerations is deficient by inappropriately pre-determining that the undisclosed, unknown, but unmitigatable adverse impacts are outweighed by the necessity of implementing the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 2.23.
34.42	CPR	5/12/05	The metals TMDLs have not been based on scientifically valid data, proper technical conditions do not exist to support the development of the proposed TMDLs and the proposed TMDLs are not suitable for calculation. See 33 U.S.C. § 1313(d), 43 Fed. Reg. 60662, and 40 CFR § 130.4(a) and (b). Local agencies have not been fully consulted, there has been a complete lack of intergovernmental coordination, and the proposed TMDLs would result in the imposition of various unfunded mandates in violation of the California Constitution and other State and federal laws.	See response to comments on the July 12, 2004 draft – comment Nos. 6.22, 16.3, 16.14, 16.26, and 16.27.
35.1	TECs Environmental	5/12/05	The Regional Board has not met the responsibility of CEQA’s evaluation criteria as required by the certified regulatory program because the CEQA checklist is outdated and does not follow the current CEQA checklist found on the Secretary of Resources website. The outdated checklist does not include aesthetics, human health, and hazards and hazardous materials. The outdated checklist does not address violations of water quality standards, placement within a 100-year flood hazard area, and hazardous materials.	See response to comment No. 3.9.

No.	Author	Date	Comment	Response
36.1	City of Downey	5/12/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that ‘if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this. The TMDL should reflect the fact that the cities affected by the TMDL will be in compliance so long as they implement the iterative BMPs that are consistent with the maximum extent practicable (MEP) standard.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 2.18, 6.4, and 16.7.
36.2	City of Downey	5/12/05	The proposed implementation strategies contradict EPA’s response to comments received during CTR adoption, which stated that no city was complying by installing treatment devices, impounding storm water, or constructing treatment facilities.	See responses to comments on the July 12, 2004 draft – comment No. 16.11.
36.3	City of Downey	5/12/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions, and atmospheric deposition.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
36.4	City of Downey	5/12/05	The shared waste load allocation for the Caltrans and MS4 permittees does not recognize the unique difference between the communities and sub-watersheds. The source assessment section must be strengthened to better define the sources of pollutants causing the impairments.	See response to comment No. 3.4.
36.5	City of Downey	5/12/05	The cost analysis is underestimated because it does not account for the costs of treating 60% of the watershed (through an integrated resources program and other implementation measures), dry-weather diversions, land acquisition, special studies, or financing capital improvements.	See response to comment No. 3.5.
36.6	City of Downey	5/12/05	This TMDL needs to identify where imposing CTR limits on wet-weather discharges is articulated and why asserting these impossible to achieve design criteria is not an arbitrary assertion by Regional Board	See responses to comments on the July 12, 2004 draft – comment No. 2.18.

No.	Author	Date	Comment	Response
			staff. Otherwise, the TMDL should propose a flow definition that reasonably assures that the permittees of cost-effective compliance. Compliance need only be achieved through the use of practical, iterative BMPs to the Maximum Extent Practicable.	
36.7	City of Downey	5/12/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services. State CEQA guidelines require the Board to prepare a Functionally Equivalent Document and explore the alternative impacts of this new unfunded mandate.	See responses to comments on the July 12, 2004 draft – comment Nos.2.23 and 8.16 through 8.27.
36.8	City of Downey	5/12/05	The unwillingness of local voters to fund new storm water fees (Charlton Research Company, 2002) makes it all the more critical that the Regional Board consider sections 13000 and 13241 of the Porter-Cologne Act.	See responses to comments on the July 12, 2004 draft – comment No. 6.14.
36.9	City of Downey	5/12/05	EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis. The decision in the City of Burbank v. State Water Resources Control Board No. S1119248 mandates that a full economic analysis be conducted when the regulations imposed by the state exceed federal requirements.	See response to comment No. 3.11.
36.10	City of Downey	5/12/05	The Board members that were not members of the Board when the 1999 EPA Consent Decree was entered into to should consider whether the CTR, existing EPA regulations, and State regulations allow flexibility in application and implementation.	See response to comment No. 3.12.
36.11	City of Downey	5/12/05	The technical and scientific concerns raised by the peer reviewers were not addressed in the recent TMDL staff reports.	See response to comment No. 3.13.

No.	Author	Date	Comment	Response
36.12	City of Downey	5/12/05	The Board has yet to post its response to comments from the prior version of this TMDL. The Board should delay adoption of the TMDL until major concerns are addressed. The Board should also delay implementation. The first phase of implementation should focus on the Regional Board partnering with other agencies to address atmospheric deposition as a source and conducting special studies. The cities will need time to complete the implementation plan, conduct special studies, and arrange for financing prior to making progress towards achievement of wet-weather allocations.	See response to comment No. 3.14.
37.1 and 37.2	City of Downey	5/12/05	The data used in calculating numeric targets for Rio Hondo Reach 1 is old and is not consistent with the hardness values from municipal water providers. City staff advised Board staff of additional municipal hardness data that could be used to calculate numeric targets at the April 23, 2004, CEQA Scoping meeting. Unfortunately, the same data appeared in Table 8 of the July 9, 2004 staff report, impacting many of the subsequent tables and report sections.	See responses to comments on the July 12, 2004 draft – comment Nos. 9.1 and 9.2.
37.3 and 37.4	City of Downey	5/12/05	Based on updated hardness data, there is no indication that the surface runoff from the cities is the primary water in Reach 1 of the Rio Hondo. Our 6 cities should not be penalized if a soft, but metal containing upper aquifer ground water is leaking into the channel, or if a significant discharger to this reach cannot be located by any of the regulatory agencies.	See responses to comments on the July 12, 2004 draft – comment Nos. 9.3 and 9.4.
38.1	Executive Advisory Committee	5/12/05	The Board should release responses to comments on the prior draft TMDL and allow municipalities the opportunity to reply to any appropriate responses.	See response to comment No. 2.1
38.2	Executive	5/12/05	Any submitted comments not adopted by Board staff are hereby	See response to comment No. 1.1. See

No.	Author	Date	Comment	Response
	Advisory Committee		resubmitted in the context of the current TMDL proposal.	previous response to comments.
38.3	Executive Advisory Committee	5/12/05	The TMDL lacks transportation related aerial deposition source controls. Implementation of this TMDL should be funded through a fuel tax throughout the South Coast Air Quality Management District.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1. Staff has met with the South Coast Air Quality Management District, Southern California Coastal Water Research Project, Southern California association of Governments, and LA County Department of Public Works to discuss aerial deposition issues. Participants in the meeting agreed to meet quarterly to address these issues.
38.4	Executive Advisory Committee	5/12/05	This TMDL ignores interim efforts by municipalities to install early action BMPs. A greater emphasis and acknowledgement should be granted on those communities that have gone beyond the requirements and regulations. Communities that support SUSMP strategies should be credited for their achievements.	The Regional Board acknowledges interim efforts by municipalities and these efforts and their successes should be assessed as the members of the jurisdictional groups develop their implementation plans.
38.5	Executive Advisory Committee	5/12/05	The cost analysis is underestimated because it does not account for the costs of treating 60% of the watershed (through an integrated resources program and other implementation measures), dry-weather diversions, land acquisition, special studies, or financing capital improvements. The EAC recommends that Board staff review the financial impacts projected in the 2002 USC cost study.	See response to comment No. 3.5.
38.6	Executive Advisory Committee	5/12/05	The staff report does not identify how the pollutant conveyance models incorporate sediment transport from natural areas. It is not clear how the model dealt with the conundrum of how small errors during high flow conditions produce significant changes in output.	See responses to comments on the July 12, 2004 draft – comment No. 6.39.
38.7	Executive	5/12/05	Instead of working with municipalities to identify problem sites and	See responses to comments on the July 12,

No.	Author	Date	Comment	Response
	Advisory Committee		focus enforcement on those who are already known to be in violation of general industrial and storm water permit requirements, the Board ignores their responsibilities and blame cities for discharges from Board permit holders.	2004 draft – comment No. 7.6.
38.8	Executive Advisory Committee	5/12/05	The CTR translator is inaccurate and flawed. There is no need to invoke additional conservative margin of safety assumptions and efforts should focus on controlling dissolved metals.	The CTR translator is not inaccurate and flawed because it was not developed specifically for the Los Angeles River watershed. Where the translator overestimates the dissolved portion of metals, this is applied towards the margin of safety, which is a required component of the TMDL.
43.1	City of Whittier	4/29/05	Applying CTR criteria directly to storm water is inappropriate. EPA stated in CTR proceedings that they believe existing best management practices (BMPs) are the appropriate alternative to never-to-be-exceeded numeric permit limits. A November 22, 2002 guidance memo states that “if it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this.	See response to comments on the July 12, 2004 draft – comment Nos. 1.3, 6.4, and 16.7.
43.2	City of Whittier	4/29/05	The proposed implementation strategies contradict EPA’s response to comments received during CTR adoption, which stated that no city in the entire country was installing treatment devices, impounding storm water, or constructing “end-of-pipe” treatment facilities to comply with toxic standards.	See response to comments on the July 12, 2004 draft – comment No. 16.11.
43.3	City of Whittier	4/29/05	The TMDLs make the cities responsible for metals pollution from sources out of their control such as open areas, educational institutions, and atmospheric deposition.	See responses to comments on the July 12, 2004 draft – comment Nos. 10.21 and 13.1.
43.4	City of	4/29/05	It is unfair and unreasonable to expect municipalities to treat vehicular	See responses to comments on the July 12,

No.	Author	Date	Comment	Response
	Whittier		related metals loads or prevent them from entering a component of the storm drain system when municipalities only contribute to the transport of these pollutants through their roadways. The SUSMP program should be modified to be TMDL-specific, requiring projects in the Los Angeles River to install treatment controls that address metal fines.	2004 draft – comment Nos. 10.21 and 13.1.
43.5	City of Whittier	4/29/05	The CEQA review is inadequate because the documents fail to address the impact of the TMDL on police, fire, parks, recreation, maintenance of public facilities, utilities and other public services.	See responses to comments on the July 12, 2004 draft – comment Nos.2.23 and 8.16 through 8.27.
43.6	City of Whittier	4/29/05	If the TMDL implies that the cities should adopt an IRP similar to the City of Los Angeles, and the City of Los Angeles is completing an environmental impact report (EIR) for their IRP, then an EIR should be completed for the TMDL.	See responses to comments on the July 12, 2004 draft – comment No. 6.17.
43.7	City of Whittier	4/29/05	The CEQA review did not effectively address a number of environmental issues and did not adequately address mitigation measures. The checklist that was used was outdated and not in conformance with the checklist that is used by other regional boards.	See response to comment No. 3.9.
43.8	City of Whittier	4/29/05	The Regional Board must consider sections 13000 and 13241 of the Porter-Cologne Act. EPA did not complete an economic analysis when adopting CTR because it would not result in substantial investments by local government beyond the existing (1996) NPDES permit programs. The Regional Board is now moving forward to apply CTR in the Metals TMDLs without proper economic analysis.	See response to comment No. 3.11.